

12. Liability for expenses resulting from dumping incurred by the State

- (1) Where —
- (a) a person has been convicted of an offence against section 5 or 6; and
 - (b) by reason of the exercise by the Minister of his powers under section 11, the State has incurred expenses or other liabilities in repairing or remedying any condition, or mitigating any damage, arising from the dumping that constituted the offence,

a person so convicted is liable to pay to the State an amount equal to the total amount of those expenses and liabilities of the State and that amount may be recovered, as a debt due to the State by the person, by action in an court of competent jurisdiction.

- (2) Where two or more persons have been convicted of offences referred to in subsection (1) in respect of the same act of dumping, the State is not, by virtue of that subsection, entitled to recover from those persons amounts that, in the aggregate, exceed the total amount of the expenses and liabilities incurred by the State, by reason of the exercise by the Minister of his powers under section 11, as a result of that dumping.
- (3) Subject to subsection (4), where the owner of a vessel, aircraft or Western Australian platform —
- (a) has been convicted of an offence against section 5 or 6 with respect to dumping from the vessel, aircraft or platform; and
 - (b) is liable by virtue of subsection (1) of this section to pay an amount to the State in respect of that offence,

that amount is a charge upon the vessel, aircraft or platform, as the case may be, and, in the case of a vessel or aircraft, the vessel or aircraft may be detained by an inspector until the amount is paid or security for the payment of the amount is provided to the satisfaction of the Minister.

- (4) Subsection (3) does not entitle a person to detain a vessel or aircraft unless the vessel or aircraft —
- (a) is a Western Australian vessel or Western Australian aircraft, as the case may be; or
 - (b) is in the State or in coastal waters.

- (5) Where —
- (a) a vessel that has been detained under subsection (3) goes to sea before it is released from detention; or
 - (b) an aircraft that has been detained under subsection (3) leaves the State before it is released from detention,

the master and owner of the vessel or aircraft, as the case may be, are each guilty of an offence against this subsection punishable, upon conviction —

- (c) in the case of the master, by a fine not exceeding \$5 000 or imprisonment for a term not exceeding 2 years, or both;
- (d) in the case of the owner, if the owner is not a body corporate, by a fine not exceeding \$5 000 or imprisonment for a term not exceeding 2 years, or both; or

- (e) in the case of the owner, if the owner is a body corporate, by a fine not exceeding \$10 000.