



OCEANS PROTECTION PLAN PLAN DE PROTECTION DES OCÉANS

An Act respecting wrecks, abandoned, dilapidated or hazardous vessels and salvage operations


Overview

Context

- Abandoned, dilapidated and wrecked vessels (vessels of concern) can present environmental, economic, social and safety hazards, and are a growing issue for local communities. For example, these vessels can pose marine pollution risks, hazards to the health and safety of local citizens, and threaten local fisheries and security of nearby infrastructure, in addition to other hazards.
- It is currently estimated hundreds of these vessels exist in Canadian waters, ranging from small pleasure craft to large commercial ships, both foreign and domestic.
- Proper remediation of these problem vessels, involving their removal and disposal or corrective measures to limit damage, can be expensive. While the vast majority of vessel owners act responsibly, some do not have the financial capacity or are unwilling to properly maintain, store or dispose of their vessels. Abandonment is seen as a low-cost means of dealing with an unwanted vessel or the consequences of a wreck.
- Currently, the federal government has authorities to address some of the impacts of these vessels, such as pollution discharge or navigation hazards, but limited authorities to deal with the vessels themselves. The proposed bill would address these gaps in federal legislation.
- The proposed legislation aims to protect coastal and shoreline communities, the environment and infrastructure. It also aims to reduce the burden on taxpayers. To date, governments have borne many of the costs to remove and dispose of problem vessels. This legislation is a core element of the national strategy on abandoned and wrecked vessels that was announced as part of the Oceans Protection Plan in November 2016.



Summary

- **Strengthening vessel owner liability:** Part 1 of the proposed legislation would establish a comprehensive regime to address wrecks resulting from maritime accidents. It would:
 - Give force of law in Canada to the *Nairobi International Convention on the Removal of Wrecks, 2007*;
 - Make vessel owners strictly liable for locating, marking, and, if necessary, removing a wreck that poses a hazard;
 - Require owners of vessels of 300 gross tonnes and above to maintain insurance or other financial security to cover the potential costs related to the removal of the wreck;
 - Provide insurance claimants the right to recover their losses through direct action against the vessel owner's insurer; and
 - Clarify the roles and responsibilities of vessel owners and the federal government with respect to assessing a hazard as well as reporting, locating, marking and removing wrecks.
 - **Addressing irresponsible vessel management:** Part 2 of the new legislation would prohibit:
 - Vessel abandonment unless authorized by law or in case of a maritime emergency;
 - Causing a vessel to become a wreck (e.g., deliberate scuttling);
 - Leaving a vessel adrift for a period of 48 hours or more; and,
 - Leaving a dilapidated vessel (in poor condition or state of neglect) in the same area for more than 60 days without the consent of the manager, owner or lessee of the area (such as a Canada Port Authority or harbour master).
 - **Taking federal action:** Parts 1 and 2 of the proposed legislation would empower the Minister of Fisheries, Oceans and the Canadian Coast Guard to:
 - Take proactive measures to prevent, mitigate or eliminate hazards posed by vessels or wrecks (in consultation with the Minister of Transport) including directing and holding the owner to account; and,
 - Order the removal of dilapidated vessels left on property for which the Minister of Fisheries, Oceans and the Canadian Coast Guard is responsible, such as a Small Craft Harbour, or take the measures directly and hold the owner liable for costs.
 - Part 2 of the proposed legislation would also empower the Minister of Transport to:
 - Order the removal of dilapidated vessels left on any federal Crown property not under the responsibility of the Minister of Fisheries, Oceans and the Canadian Coast Guard, or take the measures directly and hold the owner liable for costs; and,
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- Authorize the transfer of possession of any abandoned vessel or wreck to a third party, subject to conditions and a 30-day public notification process.
 - In addition, Part 2 of the proposed legislation would authorize the Minister of Transport and the Minister of Fisheries, Oceans, including the Canadian Coast Guard, subject to a 30-day public notification process, to sell or otherwise dispose of abandoned, dilapidated or wrecked vessels, and hold the owner liable for costs.
 - **Realigning authorities:** Elements in the *Canada Shipping Act, 2001* (CSA 2001) pertaining to the *International Convention on Salvage, 1989*, as well as to the Receiver of Wreck would be repealed and re-enacted as Parts 3 and 4 respectively, with some amendments, under the proposed legislation. This would contribute to a more comprehensive regulatory approach for addressing issues pertaining to wrecked vessels, while also streamlining the CSA 2001 by ensuring uniform rules regarding salvage operations, salvager rights and the environment. In particular, with respect to Receiver of Wreck, Part 4 of the proposed legislation would strengthen the property rights of unknown owners, or owners who cannot be located, by no longer allowing persons to take possession of found wrecks.
 - **Establishing compliance and enforcement:** The proposed legislation would establish an enforcement regime in Part 5 that authorizes the issuance of administrative monetary penalties, establishes regulatory offences, and sets out a penalty regime that is intended to deter non-compliance. Part 5 also includes the powers necessary to enable the Minister of Fisheries and Oceans and the Canadian Coast Guard to determine whether a vessel or wreck poses, or may pose, a hazard.
 - **Confirming general liabilities:** As is typical in most federal legislation, Part 6 would provide certain civil and criminal immunity to public servants who are authorized to act, or to persons who are directed to act under the proposed legislation, except to owners of the vessels themselves. Further, this Part also establishes debt due to the Crown for vessel owners with respect to any costs incurred by the respective ministers.
 - **Additional authorities:** As part of the comprehensive strategy to address abandoned, dilapidated and wrecked vessels, Part 7 of the proposed legislation also includes a large number of regulation-making authorities. This includes the ability to make regulations with respect to vessel salvage operation: towing, dismantlement or destruction requirements; and conditions for selling or acquiring vessels, setting fees for services, or excluding certain classes of vessels from the scope of the proposed regime.
 - Finally, the proposed legislation includes information sharing provisions that would support effective administration and enforcement, and enhance the integrity of vessel ownership data. The Government is also considering other measures in parallel to the legislation to improve the quality of vessel ownership information.
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