

CAYMAN ISLANDS



Supplement No.2 published with Gazette No. 23 dated 18 November 2002

**THE MERCHANT SHIPPING (MARINE POLLUTION) LAW, 2001**

**(LAW NO 42 OF 2001)**

## ARRANGEMENT OF SECTIONS

### PART I - Introductory

1. [Short title](#)
2. [General interpretation and definitions](#)

### PART II - Administration

3. [Powers of Member of Executive Council](#)
4. [Delegation by Member of Executive Council](#)
5. [Protection of Government and public officers](#)
6. [Power of Governor to make regulations generally](#)
7. [Director to maintain documents](#)
8. [Convention to prevail](#)
9. [Surveys, inspections and monitoring](#)
10. [Communication, cooperation and consultation](#)

### PART III - Powers and Jurisdiction under UNCLOS

11. [Interpretation for the purposes of Part III](#)
12. [Pollution prevention measures](#)
13. [Notification of imminent or actual damage](#)
14. [Measures relating to seaworthiness of vessels to avoid pollution](#)
15. [Violation of the Law by vessels navigating in territorial sea or exclusive economic zone](#)
16. [Monitoring of the risks of effects of pollution](#)
17. [Publication of reports by Director](#)
18. [Assessment of potential effects of activities](#)

### PART IV - Intervention on the High Seas

19. [Interpretation for the purposes of Part IV](#)
20. [Director to take measures regarding pollution](#)
21. [Duties of director](#)
22. [Nomination of experts](#)
23. [Limitation on measures by Director](#)
24. [Compensation](#)
25. [Rights, etc. preserved](#)
26. [Settlement of disputes](#)

### PART V - Prevention of Pollution from Ships

#### Chapter I – General Provisions

27. [Scope and application of Part and exemptions](#)
28. [Interpretation for the purposes of Part V generally](#)
29. [Description of special areas](#)
30. [Violation of this Part](#)
31. [Certificates and special rules on inspection of ships](#)
32. [Detection of violations and enforcement of this Part](#)
33. [Undue delay to ships](#)
34. [Reports on incidents involving harmful substances](#)
35. [Communication of information](#)
36. [Casualties to ships](#)
37. [Promotion of technical cooperation](#)

**Chapter II - Prevention of Pollution by Oil**

38. [Interpretation for the purposes of Chapter II](#)
39. [Application of Chapter II](#)
40. [Equivalents](#)
41. [Initial, renewal and intermediate surveys](#)
42. [Annual and additional surveys](#)
43. [Nominated surveyors and recognised organisations](#)
44. [Corrective action](#)
45. [Withdrawal of IOPP certificate and detention](#)
46. [Assistance to other MARPOL member states](#)
47. [Maintenance requirements](#)
48. [Report of accidents and defects](#)
49. [Issue or endorsement of IOPP certificate](#)
50. [Issue or endorsement of IOPP certificate upon request by a MARPOL member state](#)
51. [Form of IOPP certificate](#)
52. [Duration and validity of IOPP certificate](#)
53. [Transfer of flag](#)
54. [Control of discharge of oil](#)
55. [Ships less than 400 gross tonnage](#)
56. [Special areas](#)
57. [Control of discharge of oil in special areas](#)
58. [Voyage partly through a special area](#)
59. [Special provision for Antarctic area](#)
60. [Discharges containing chemicals, etc. prohibited](#)
61. [Investigations](#)
62. [Retention of oil residues on board](#)
63. [Tanks for oil residues \(sludge\)](#)
64. [Exceptions under Chapter II](#)
65. [Provision of reception facilities](#)
66. [Location of reception facilities](#)
67. [Capacities of reception facilities](#)
68. [Notice of inadequate reception facilities](#)
69. [Oil record book](#)
70. [Special requirements for drilling rigs and other platforms](#)
71. [Shipboard oil pollution emergency plan](#)
72. [Offences under Chapter II](#)
73. [Power to make regulations under Chapter II](#)

**Chapter III - Prevention of Pollution by Noxious Liquid Substances in Bulk**

74. [Interpretation for the purposes of Chapter III](#)
75. [Application of Chapter III](#)
76. [Conversion of a ship to a chemical tanker](#)
77. [Modification or delay of application of amendments](#)
78. [Equivalents](#)
79. [Categorisation and listing of noxious liquid substances](#)
80. [Other liquid substances](#)
81. [Provisional assessment and categorisation of substances](#)
82. [Clean or segregated ballast](#)
83. [Special areas](#)
84. [Discharge of category A substances outside and within special areas](#)
85. [Discharges of category B and C substances outside special areas](#)
86. [Discharges of category B and C substances within special areas](#)
87. [Discharges of category D substances in all areas](#)
88. [Discharges from a slop tank and meaning of “en route”](#)
89. [Special provision for Antarctic area](#)
90. [Ventilation procedures](#)

91. [Uncategorised substances](#)
92. [Retention on board of residues of category B or C substances](#)
93. [Pumping, piping and unloading arrangements](#)
94. [Exceptions under Chapter III](#)
95. [Reception facilities for noxious liquid substances](#)
96. [Arrangements at cargo unloading terminals](#)
97. [Notification to Organization regarding reception facilities](#)
98. [Measures of control](#)
99. [Cargo record book](#)
100. [Surveys](#)
101. [Nominated surveyors and recognised organisations](#)
102. [Corrective action](#)
103. [Withdrawal of NLS certificate and detention](#)
104. [Assistance to other MARPOL member states](#)
105. [Maintenance requirements](#)
106. [Report of accidents and defects](#)
107. [Issue or endorsement of NLS certificate](#)
108. [Issue or endorsement of NLS certificate upon request by a MARPOL member state](#)
109. [Form of NLS certificate](#)
110. [Duration and validity of NLS certificate](#)
111. [Transfer of flag](#)
112. [Survey and certification of chemical tankers](#)
113. [Requirements for minimising accidental pollution](#)
114. [Carriage and discharge of oil-like substances](#)
115. [Offences under Chapter III](#)
116. [Power to make regulations under Chapter III](#)

#### **Chapter IV - Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form**

117. [Interpretation for the purposes of Chapter IV](#)
118. [Application of Chapter IV](#)
119. [Prohibitions on carriage, shipment and jettisoning of harmful substances](#)
120. [Packing](#)
121. [Marking and labelling](#)
122. [Documentation](#)
123. [Stowage](#)
124. [Quantity limitations](#)
125. [Power to make regulations under Chapter IV](#)
126. [Exceptions under Chapter IV](#)
127. [Offences under Chapter IV](#)

#### **Chapter V – Prevention of Pollution by Sewage**

128. [Interpretation for the purposes of Chapter V](#)
129. [Application of Chapter V](#)
130. [Surveys](#)
131. [Power to make regulations under Chapter V](#)
132. [Issue of international sewage pollution prevention certificate](#)
133. [Issue of SPPC upon request by a MARPOL member state](#)
134. [Form of SPPC](#)
135. [Duration of SPPC](#)
136. [Discharge controls](#)
137. [Public notice of standards](#)
138. [Exceptions under Chapter V](#)
139. [Sewage reception facilities and standard discharge connections](#)
140. [Inspection of sewage reception facilities](#)
141. [Notice of inadequate sewage reception facilities](#)
142. [Offences under Chapter V](#)

### **Chapter VI - Prevention of Pollution by Garbage**

143. [Interpretation for the purposes of Chapter VI](#)
144. [Application of Chapter VI](#)
145. [Special areas](#)
146. [Disposal of garbage outside special areas](#)
147. [Disposal of garbage from fixed or floating platforms](#)
148. [Disposal of garbage within special areas](#)
149. [Special provision for Wider Caribbean Region](#)
150. [Mixed wastes](#)
151. [Special provision for Antarctic area](#)
152. [Exceptions under Chapter VI](#)
153. [Garbage reception facilities](#)
154. [Inspection of reception facilities and notice of inadequate facilities](#)
155. [Placards](#)
156. [Garbage management plans](#)
157. [Garbage record book](#)
158. [Power to make regulations under Chapter VI](#)
159. [Regional cooperation](#)
160. [Notification of garbage disposal prohibitions](#)
161. [Offences under Chapter VI](#)

### **PART VI - Oil Pollution Preparedness and Response**

162. [Interpretation for the purposes of Part VI](#)
163. [Application of Part to Government ships and naval vessels](#)
164. [Oil pollution emergency plans](#)
165. [Oil pollution reporting procedures](#)
166. [Action on receiving an oil pollution report](#)
167. [National system for preparedness and response](#)
168. [International cooperation in pollution response](#)
169. [Research and development](#)
170. [Technical cooperation](#)
171. [Bilateral and multilateral cooperation in preparedness and response](#)
172. [Relation to other Parts](#)

### **PART VII - Dumping of Wastes at Sea**

173. [Interpretation for the purposes of Part VII](#)
174. [Application of Part VII](#)
175. [Objects of Part VII](#)
176. [Administration of Part VII](#)
177. [Obligations of authorised person](#)
178. [Director of Environmental Affairs may take more stringent measures](#)
179. [Prohibition of dumping of wastes](#)
180. [Dumping permits](#)
181. [Duty to notify Organization](#)
182. [Prohibition of incineration at sea and of export of wastes](#)
183. [Offences under Part VII](#)
184. [Exceptions in cases of \*force majeure\*](#)
185. [Exceptions in cases of other emergencies](#)
186. [Record keeping and reporting](#)
187. [Cooperation regarding enforcement](#)
188. [Liability for damage arising out of dumping at sea](#)
189. [Settlement of disputes](#)

**PART VIII - Carriage of Hazardous and Noxious Substances**

- 190. [Interpretation for the purposes of Part VIII](#)
- 191. [Application of Part VIII](#)
- 192. [Liability of the owner](#)
- 193. [Incidents involving two or more ships](#)
- 194. [Limitation of liability](#)
- 195. [Limitation fund](#)
- 196. [Limitation fund to be constituted in dollars](#)
- 197. [Bar to other actions](#)
- 198. [Death and injury](#)
- 199. [Compulsory insurance of the owner](#)
- 200. [HNS Fund and miscellaneous matters relating to the convention](#)
- 201. [Power to make regulations under Part VIII](#)

**PART IX - Enforcement, Inquiries, Legal Proceedings and Jurisdiction**

- 202. [Enforcement, etc.](#)
- 203. [Service of documents on shipowners, application of fines, etc.](#)
- 204. [Restriction on jurisdiction over offences outside Cayman Islands limits](#)
- 205. [Suspension of proceedings at flag State request](#)

**SCHEDULES**

- [Schedule 1](#) List of Substances Established by the Marine Environment Protection Committee of the Organization in accordance with Paragraph 2(A) of Article 1 of the Protocol of 1973 to the Intervention Convention
- [Schedule 2](#) Conciliation and Arbitration under the Intervention Convention - Annex to the Intervention Convention
- [Schedule 3](#) Substances Listed in Appendix I to Annex I of MARPOL
- [Schedule 4](#) Form of IOPP Certificate and Supplements
- [Schedule 5](#) Form of Oil Record Book
- [Schedule 6](#) List of Noxious Liquid Substances Carried in Bulk
- [Schedule 7](#) Guidelines for the Categorisation of Noxious Liquid Substances
- [Schedule 8](#) List of Other Liquid Substances
- [Schedule 9](#) Form of Cargo Record Book for Ships Carrying Noxious Liquid Substances in Bulk
- [Schedule 10](#) Form of NLS Certificate
- [Schedule 11](#) Guidelines for the Identification of Harmful Substances in Packaged Form
- [Schedule 12](#) Form of ISPP Certificate
- [Schedule 13](#) Standard Dimensions of Flanges for Discharge Connections
- [Schedule 14](#) Form of Garbage Record Book
- [Schedule 15](#) Annex to the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 - Reimbursement of the Costs of Assistance
- [Schedule 16](#) Dumping of Wastes
- [Schedule 17](#) 1996 Protocol to the London Convention
- [Schedule 18](#) Form of Certificate of Insurance Regarding Carriage of HNS
- [Schedule 19](#) Texts of Chapter III And IV, Article 52 and Annex II of the HNS Convention
- [Schedule 20](#) Text of Article 48 of The HNS Convention - Amendment of Limits

Law 42 of 2001.  
I Assent  
B. H. Dinwiddy  
Governor.  
5 November, 2002

**A LAW TO PREVENT THE DELIBERATE, NEGLIGENT OR ACCIDENTAL RELEASE OF OIL AND OTHER HARMFUL SUBSTANCES FROM SHIPS, FOR THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT AND THE CONSERVATION OF THE NATURAL RESOURCES THEREIN, AND TO THAT END, TO REGULATE MARITIME ACTIVITIES, AND FOR INCIDENTAL AND CONNECTED PURPOSES**

**PART I - Introductory**

Short title	1. This Law may be cited as the Merchant Shipping (Marine Pollution) Law, 2001.
General interpretation and definitions	2. In this Law - “agent” means, in relation to a ship, an agent of the owner, not being a managing owner, vested with a specific authority by the owner; “Cayman Islands protected waters” means waters in which the Cayman Islands has jurisdiction in respect of the protection and preservation of the marine environment under international law; “Cayman Islands ship” has the meaning given in section 2(1) of the Merchant Shipping Law (2001 Revision); “Director” has the meaning given in section 2(1) of the Merchant Shipping Law (2001 Revision); “exclusive economic zone” means the zone defined in the United Nations Convention on the Law of the Sea, 1982 that extends beyond and adjacent to the territorial sea of a state; “Governor”, other than in section 167(1), means Governor in Council; “master” includes every person having command or charge of any ship, other than a pilot; “Member of Executive Council” means the Member of Executive Council for the time being responsible for Merchant Shipping and Seamen; “national waters” in respect of the Cayman Islands has the meaning given in section 2(2)(b) of the Merchant Shipping Law (2001 Revision); “Organization” or “IMO” means the International Maritime Organization; “owner” in relation to a ship, includes a demise or bareboat charterer, a managing owner and an operator; “territorial sea” in respect of the Cayman Islands has the meaning given in the Cayman Islands (Territorial Sea) Order, 1989; and in respect of any other State has the meaning given in the United Nations Convention on the Law of the Sea, 1982; and “tonnage regulations” means any regulations made under section 50 of the Merchant Shipping Law (2001 Revision).
2001 Revision	

**PART II - Administration**

Powers of Member of Executive Council

3. The Member of Executive Council, in addition to any other power conferred on him by any other provisions of this Law, shall be responsible for the administration and implementation of this Law.

Delegation by Member of Executive Council

4. (1) The Member of Executive Council may delegate any of his powers or duties under this Law to any person appointed or authorised to perform any functions under this Law and shall publish a notice in the Gazette containing the details of such delegation and the date on which it is to take effect.

(2) Any power or duty lawfully exercised or performed by the officer to whom it is delegated under this section, shall be deemed to have been exercised as fully and effectively as if it had been exercised by the Member of Executive Council.

Protection of Government and public officers

5. No suit shall be maintained against the Government or any public officer or other person appointed or authorised to perform any function under this Law in respect of anything done or omitted to be done by him in good faith in the exercise or performance of any power, authority or duty conferred or imposed on him under this Law.

Power of Governor to make regulations generally

6. The Governor may make regulations generally for the administration of this Law, and in particular, for-

- (a) prescribing the extent to which this Law may be applicable to ships of the Government which are engaged in Government, non-commercial service;
- (b) the enforcement of any international convention or instrument relating to this Law or to which this Law relates;
- (c) prescribing fees and all other payments required under this Law;
- (d) governing the holding of enquiries and investigations under this Law;
- (e) the prevention and control of ship generated air pollution;
- (f) Port State Control of ships in Cayman Islands ports;
- (g) prescribing anything that under this Law is to be prescribed; and
- (h) varying the terms of this Law to give effect to changes in the international conventions and treaties that are implemented in the Islands by this Law.

Director to maintain documents

7. The Director shall maintain in his office, or some other prescribed public office, library or repository, a copy of-

- (a) all conventions and international instruments referred to in this Law that have application in the Islands; and
- (b) all regulations and notices made pursuant to this Law,

and copies shall be made available for inspection or, upon payment of a prescribed fee, for the taking of copies thereof by members of the public.

Convention to prevail

8. Where an international convention or other international instrument referred to in this Law applies to the Islands and a provision of that convention or instrument and a provision of this Law conflict in any manner, the provision of the convention or instrument shall prevail.

Surveys, inspections and monitoring

9. The Director, or a person authorised by him for the purpose, may board, inspect and survey any ship to which this Law applies, enter port facilities in the Cayman Islands, demand the production of documents, records and other evidence, and take testimony of witnesses under oath, for the purpose of conducting inspections and surveys and for undertaking other activities authorised or required under this Law.

Communication, cooperation and consultation

10. The Director may communicate, cooperate and consult as necessary and appropriate with-

- (a) portfolios, departments and agencies of the Government;
- (b) governments of other States who are parties to the international conventions referred to in this Law;
- (c) governments of other States of the Wider Caribbean Region;
- (d) international, inter-governmental and non-governmental organisations; and
- (e) shipowners, seafarers' associations, ships' agents, and other organisations involved or interested in shipping or in protection of the marine environment,

to further the objects of this Law.



**PART III- Powers and Jurisdiction under UNCLOS**

Interpretation for the purposes of Part III

11. In this Part-

“UNCLOS” means the United Nations Convention on the Law of the Sea, 1982; and  
“MARPOL” and “MARPOL member State” have the meanings given in section 28.

Pollution prevention measures

12. (1) The Government shall take all measures necessary to ensure that activities under the jurisdiction or control of the Islands are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from such activities does not spread beyond the areas where the Cayman Islands exercises rights and jurisdiction in accordance with UNCLOS.

(2) In taking measures to prevent, reduce or control pollution of the marine environment, the Director shall refrain from unjustifiable interference with activities carried out by other States in the exercise of their rights and in pursuance of their duties in conformity with UNCLOS.

(3) Measures taken to prevent, reduce or control pollution of the marine environment shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

(4) In taking measures to prevent, reduce and control pollution of the marine environment, the Director shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

Notification of imminent or actual damage

13. Where the Director becomes aware of cases in which the marine environment is in imminent danger or has been damaged by pollution, he shall immediately notify other States he deems likely to be affected by such damage, as well as the Organization.

Measures relating to seaworthiness of vessels to avoid pollution

14. (1) Subject to subsection (2), where the Director has ascertained that a vessel within a port or offshore terminal in the Cayman Islands is in violation of any law of the Islands relating to seaworthiness of vessels and thereby threatens damage to the marine environment he shall, as far as practicable, prevent the vessel from sailing.

(2) The Director may permit the vessel to proceed only to the nearest repair yard.

Violation of the Law by vessels navigating in territorial sea or exclusive economic zone

15. (1) Where there are clear grounds for believing that a vessel navigating in the territorial sea of the Islands has, during its passage therein, been in violation of this Law, the Director may, without prejudice to the vessel’s right of innocent passage under UNCLOS, undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with this Law.

(2) Where there are clear grounds for believing that a vessel has committed a violation of this Law in Cayman Islands protected waters, the Director may require the vessel to give information regarding its identity and port of registry, its last and its next port of call, and other relevant information required to establish whether a violation has occurred.

(3) Cayman Islands ships shall comply with requests for similar information as referred to in subsection (2) made by the relevant authorities of MARPOL member States.

(4) Where there are clear grounds for believing that a vessel has committed a violation referred to in subsection (2), resulting in a substantial discharge causing or threatening significant pollution of the marine environment, the Director may undertake physical inspection of the vessel for matters relating to the violation if the vessel has refused to give information, or if the information supplied by the vessel is manifestly at variance with the evident factual situation, and if, in the opinion of the Director, the circumstances of the case justify such inspection.

(5) Where there is clear objective evidence that a vessel has committed a violation referred to in subsection (2) resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of the Islands or to any resources of the Islands, the Director may, provided that the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with this Law.

Monitoring of the risks  
of effects of pollution

16. The Director shall-

- (a) endeavour, as far as practicable, directly or through the Organization, to observe, measure, evaluate and analyse, by recognised scientific methods, the risks or effects of pollution of the marine environment; and
- (b) keep under surveillance the effects of any activities which he permits, or in which he engages, in order to determine whether these activities are likely to pollute the marine environment

Publication of reports  
by Director

17. The Director shall provide reports of the results obtained pursuant to section 16 at appropriate intervals to the Organization.

Assessment of potential  
effects of activities

18. Where the Director has reasonable grounds for believing that planned activities under the jurisdiction or control of the Islands may cause substantial pollution of, or significant and harmful changes to, the marine environment, he shall, as far as practicable, cause to be assessed the potential effects of such activities on the marine environment and communicate reports of the results of such assessments in the manner provided in section 17.

#### **PART IV - Intervention on the High Seas**

Interpretation for the  
purposes of Part IV

19. In this Part-

“Convention” means the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, as applicable to the Islands;

“maritime casualty” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;

“oil” means crude oil, fuel oil, diesel oil and lubricating oil;

“related interests” means the interests of the Islands directly affected or threatened by the maritime casualty, such as-

- (a) maritime coastal, port or estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
- (b) tourist attractions of the area concerned; or
- (c) the health of the coastal population and the well-being of the area concerned, including conservation of living marine resources and of wildlife;

“ship” means-

- (a) any seagoing vessel of any type whatsoever; and
- (b) any floating craft, with the exception of an installation or device engaged in the exploration and exploitation of the resources of the sea-bed and the ocean floor and the subsoil thereof; and

“substances other than oil” means-

- (a) those substances listed in Schedule 1; and
- (b) those other substances which are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

Director to take  
measures regarding  
pollution

20. (1) Subject to subsection (2), the Director may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to the coastline or related interests from pollution or threat of pollution of the sea by oil or substances other than oil, following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.

(2) No measures shall be taken under this Part against-

- (a) any Cayman Islands Government ship on Government non-commercial service; or
- (b) any warship or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

(3) Whenever the Director takes action with regard to a substance other than oil, he shall have the burden of establishing that the substance, under the circumstances present at the time of the intervention, could reasonably pose a grave and imminent danger analogous to that posed by any of the substances listed in Schedule 1.

Duties of Director

21. (1) In taking measures under section 20, the Director-

- (a) before doing so, shall consult without delay with other States affected by the maritime casualty, particularly with the flag State or States;
- (b) shall notify without delay the proposed measures to any persons natural or corporate or any organisation, authority or body known to him, or made known to him during the consultations, to have interests which can reasonably be expected to be affected by those measures, and shall take into account their views, if any;
- (c) before doing so, may consult with independent experts, whose names shall be chosen from a list maintained by the Organization;
- (d) in cases of extreme urgency requiring immediate action, may take measures rendered necessary by such urgency, without prior notification or consultation or without continuing consultations already begun; and
- (e) shall, before taking such measures and during their course, use his best endeavours to avoid risk to human life, to afford persons in distress any assistance of which they may stand in need, and, in appropriate cases, to facilitate the repatriation of ships' crews and to raise no obstacle thereto.

(2) The Director shall notify without delay the States and the entities referred to in subsection (1)(b), as well as the Secretary-General of the Organization, of the measures taken under section 20.

Nomination of Experts

22. The Director may submit to the Organization nominations to the list of experts referred to in section 21(1)(c).

Limitation on measures by Director

23. (1) Measures taken by the Director in accordance with section 20-

- (a) shall be proportionate to the damage, actual or threatened, to the Islands;
- (b) shall not go beyond what is reasonably necessary to prevent, mitigate or eliminate the danger referred to in section 20 and shall cease as soon as that has been achieved; and
- (c) shall not unnecessarily interfere with the rights and interest of the flag State of any ship concerned, third States and of any entities concerned.

(2) In considering whether the measures are proportionate to the damage, the Director shall take account of-

- (a) the extent and probability of imminent damage if those measures are not taken;
- (b) the likelihood of those measures being effective; and
- (c) the extent of the damage which may be caused by such measures.

Compensation

24. Any person who suffers damage caused by measures taken by the Director which exceed those reasonably necessary to prevent, mitigate or eliminate the danger referred to in section 20 shall be entitled to compensation to the extent of such damage.

Rights, etc. preserved

25. Except as specifically provided, nothing in this Part shall prejudice any otherwise applicable right, duty, privilege or immunity or deprive any State Party to the Convention or any interested entity of any remedy otherwise applicable.

Settlement of disputes

26. Any dispute between the Islands and a State Party to the Convention as to whether measures taken under section 20 were in contravention of the Convention, to whether compensation is payable under section 24, or to the amount of such compensation shall, if settlement by negotiation between the Islands and the State Party involved or the physical or corporate claimants has not been possible, and if the parties to the dispute do not otherwise agree, be submitted upon request of any such party to conciliation or, if conciliation does not succeed, to arbitration, as set out in Schedule 2, notwithstanding that any remedies under the law of the Islands have not been exhausted.

## PART V - Prevention of Pollution from Ships

### Chapter I – General Provisions

27. (1) Unless otherwise specified, this Part shall apply to-
- (a) all Cayman Islands ships, wherever they may be; and
  - (b) all ships while operating in Cayman Islands protected waters
- (2) With respect to the application of Chapters II to VI of this Part, and of Part IX to ships of States which are not MARPOL member States, no more favourable treatment shall be given to such ships than is provided for under MARPOL.
- (3) Subject to the applicable regulations referred to in section 6(b), this Part shall not apply to-
- (a) ships belonging to the Government which are engaged in Government, non-commercial service; and
  - (b) warships, naval auxiliary or other ships owned or operated by a MARPOL member State and used for the time being only on government non-commercial service.

28. In this Part-

“Cartagena Convention” means Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena de Indias, 1983);

“discharge” in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying but does not include-

- (a) dumping within the meaning of the London Convention;
- (b) release of harmful substances directly arising from the exploration, exploitation and associated offshore processing of seabed mineral resources; or
- (c) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control. “existing ship” in the context of each chapter, means a ship which is not a new ship as defined in that Chapter;

“from the nearest land” means-

- (a) in respect of the Islands, from the baseline of the territorial sea of the Islands;
- (b) in respect of other States and territories, except off the north-eastern coast of Australia, from the baseline of the territorial sea established in accordance with international law;
- (c) in respect of the north-eastern coast of Australia, from a line drawn from a point on the coast of Australia in latitude 11 degrees South, longitude 142 degrees 8 minutes East to a point in latitude 10 degrees 35 minutes South, longitude 141 degrees 55 minutes East, thence to a point in latitude 10 degrees South, longitude 142 degrees East, thence to a point in latitude 9 degrees 10 minutes South, longitude 143 degrees 52 minutes East, thence to a point in latitude 9 degrees South, longitude 144 degrees 30 minutes East, thence to a point in latitude 13 degrees South, longitude 144 degrees East, thence to a point in latitude 15 degrees South, longitude 146 degrees East, thence to a point in latitude 18 degrees South, longitude 147 degrees East, thence to a point in latitude 21 degrees South, longitude 153 degrees East, and thence to a point on the coast of Australia in latitude 24 degrees 42 minutes South, longitude 153 degrees 15 minutes East;

“Government” and “Government ship” have the meanings given in section 2(1) of the Merchant Shipping Law (2001 Revision);

“harmful substance” means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control under this Part;

Scope and application of Part and exemptions

Interpretation for the purposes of Part V generally

2001 Revision

“incident” means an event involving the factual or probable discharge into the sea of a harmful substance, or effluents containing such a substance;

“London Convention” has the meaning given to “Convention” in section 173;

“MARPOL” means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and Protocols and Annexes thereto, and any amendments that may be in effect for the Islands;

“MARPOL member State” means a State the government of which is a party to MARPOL;

“reception facility” means any facility which is used for the reception of oil, noxious liquid substances, sewage or garbage at a port or terminal;

“Safety Convention” has the meaning given in section 171 of the Merchant Shipping Law (2001 Revision);

“sensitive coastal area” means any specially designated area of the environment, including the land, the area beneath the land surface, atmosphere, climate, surface water, groundwater, sea, marine and coastal areas, seabed, wetlands and natural resources within the territorial sea of the Islands which may be from time to time recognised by Order of the Member of Executive Council as subject to special protection for recognised technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic;

“ship” means a vessel of any type whatsoever operating in the marine environment and includes, without limitation, pleasure vessels, fishing vessels, hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms;

“shipowner” has the same meaning as “owner”; “special area” means a sea area where for recognised technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution is required; and

“undue delay” means a delay that is unreasonable and unnecessary in light of the particular conditions of a ship’s cargo, destination and schedule, and in light of the purpose and scope of the investigation, inspection or other cause for detaining a ship.

29. For the purposes of this Part, special areas are described as follows-

(a) the “Mediterranean Sea area” means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the parallel of 41 degrees North and bounded to the west by the Straits of Gibraltar at the meridian of 5 degrees 36 minutes West.

(b) the “Baltic Sea area” means the Baltic Sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57 degrees 44.8 minutes North;

(c) the “Black Sea area” means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41 degrees North;

(d) the “Red Sea area” means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12 degrees 8.5 minutes North, 43 degrees 19.6 minutes East) and Husn Murad (12 degrees 40.4 minutes North, 43 degrees 30.2 minutes East);

(e) the “Gulfs area” means the sea area located north-west of the rhumb line between Ras al Hadd (22 degrees 30 minutes North, 59 degrees 48 minutes East) and Ras al Fasteh (24 degrees 04 minutes North, 61 degrees 25 minutes East);

(f) the Gulf of Aden area means that part of the Gulf of Aden between the Red Sea and the Arabian Sea bounded to the west by the rhumb line between Ras si Ane (12 degrees 28.5 minutes North, 43 degrees 19.6 minutes East) and Husn Murad (12 degrees 40.4 minutes North, 43 degrees 30.2 minutes East) and to the east by the rhumb line between Ras Asir (11 degrees 50 minutes North, 51 degrees 16.9 minutes East) and the Ras Fartak (15 degrees 35 minutes North, 52 degrees 13.8 minutes East);

(g) the Antarctic area means the sea area south of latitude 60 degrees South;

(h) the “North Sea area” means the North Sea proper including seas therein with the boundary between-

- (i) the North Sea southwards of latitude 62 degrees North and eastwards of longitude 4 degrees West;
- (ii) the Skagerrak, the southern limit of which is determined east of the Skaw by latitude 57 degrees 44.8 minutes North; and
- (iii) the English Channel and its approaches eastwards of longitude 5 degrees West and northwards of latitude 48 degrees 30 minutes North; and

(i) the “Wider Caribbean Region”, as defined in article 2, paragraph 1 of the Cartagena Convention, means the Gulf of Mexico and Caribbean Sea proper including the bays and seas therein, and that portion of the Atlantic Ocean within the boundary constituted by the parallel of 30 degrees North from Florida eastward to the meridian of 77 degrees 30 minutes West, thence a rhumb line to the intersection of the parallel of 20 degrees North and the meridian of 59 degrees West, thence a rhumb line to the intersection of the parallel of 7 degrees 20 minutes North and the meridian of 50 degrees West, and thence a rhumb line drawn south-westerly to the eastern boundary of French Guiana.

30. (1) The Director shall cause regulatory action, or legal proceedings to be taken or sanctions imposed in respect of any violation under this Part, as soon as possible after he is informed of such a violation and is satisfied that sufficient evidence is available for such action or proceedings to be taken or such sanction to be imposed.

(2) In respect of ships, other than Cayman Islands ships, the Director may furnish to the government of the flag State of such ship, such information and evidence as may be in his possession in respect of the violation.

(3) Where such information and evidence as referred to in subsection (2) is received by the Director from the government of a MARPOL member State in respect of a violation by a Cayman Islands ship, he shall promptly inform such government and the Organization of the action taken.

(4) Where the Director has reason to believe that a ship proposing to enter a Cayman Islands port or offshore terminal is not in compliance with the requirements of this Part, and it is satisfied that the ship presents an unreasonable threat of harm to the marine environment, it may deny entry of such ship to any Cayman Islands port or offshore terminal.

(5) In any case where a ship to which this Part applies is suspected of being in violation of the requirements of this Part, the ship shall be liable to be detained.

31. (1) Subject to subsection (2), a certificate issued by a MARPOL member State in accordance with MARPOL shall be accepted by the Director and regarded for all purposes of MARPOL as having the same validity as a corresponding certificate issued under this Law.

(2) (a) A ship holding a certificate referred to in subsection (1) shall, while in a port or offshore terminal of the Islands, be subject to inspection by officers duly authorised by the Director for that purpose.

(b) Any inspection referred to in paragraph (a) shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate, in which case, or if the ship does not carry a valid certificate, the Director shall, subject to paragraph (c), cause the ship to be detained and prevent it from sailing until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(c) The Director may grant a ship which is subject to a detention order referred to in paragraph (b) permission to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

Violation of the Part

Certificates and special rules on inspection of ships

(d) Where a ship of a MARPOL member State is found not to be in compliance with this Part, the Director may request consultation with the government of the State concerned before denying such ship entry to a Cayman Islands port or offshore terminal or taking any other action against the ship.

(e) Where the Director denies entry to, or takes any action against a ship referred to in paragraph (d), it shall immediately inform the consular or diplomatic representative of the State concerned, or if such is not possible, the government of that State.

(f) Where a ship referred to in this section does not carry a valid certificate as required by this Part or by MARPOL, the Director shall inform the government of the State concerned of such fact.

(g) Notwithstanding paragraph (b), and without prejudice to any specific provisions relating to control over operational procedures contained in this Part or in regulations made under section 6 of this Law or under section 459 of the Merchant Shipping Law ( 2001 Revision), an inspection referred to in subsection (2) may include an investigation of any operation regulated by this Part if there are clear grounds for believing that the master or crew are not familiar with essential ship board procedures for preventing pollution, and if such inspection reveals any deficiencies, the Director shall take such steps as may be necessary to ensure that the ship does not sail until the situation has been brought to order in accordance with the requirements of this Part.

(3) Inspections under this Part shall be carried out in accordance with regulations made under this Law .

32. (1) The Director shall cooperate with governments of other MARPOL member States in the detection of violations and enforcement of this Part, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

(2) A ship to which this Part applies may, in any port or offshore terminal of the Islands, be subject to inspection by officers appointed or authorised by the Director for the purpose of verifying whether the ship has discharged any harmful substances in violation of this Part, and if such inspection indicates a violation by a ship of a MARPOL member State, a report shall be forwarded to the government of the State concerned for any appropriate action.

(3) (a) Where it is alleged that a ship of a MARPOL member State has discharged harmful substances or effluents containing such substances in violation of this Part, the Director shall furnish to the government of the State concerned, evidence, if any, of the alleged violation, and if it is practicable, notify the master of the ship concerned.

(b) Where the Director receives from a MARPOL member State such evidence as is referred to in paragraph (a) in respect of a Cayman Islands ship, it may request the government of such State to furnish further or better evidence of the alleged violation.

(c) Where the Director is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, and shall promptly inform the government of the State which has reported the alleged violation, and the Organization of the action taken.

(4) Where the government of a MARPOL member State furnishes sufficient evidence that a ship to which MARPOL applies has discharged harmful substances or effluents containing such substances in any place and requests an investigation, the Director may inspect such ship when it enters a port or offshore terminal of the Islands, and shall send the report of such investigation to the government of the State requesting it and to the government of the flag State of the ship so that appropriate action may be taken under MARPOL.

33. (1) The Director shall make every possible effort to avoid unduly detaining or delaying a ship under sections 30, 31 and 32.

(2) A ship that is unduly detained or delayed under sections 30, 31 and 32 shall be entitled to compensation from the Government for any loss or damage suffered.

Detection of violations and enforcement of this Part

Undue delay to ships

Reports on incidents involving harmful substances

34. (1) In this section-

“harmful substances” has the meaning given in Chapter IV;

“noxious liquid substance” has the meaning given in Chapter III;

“oil” has the meaning given in Chapter II; and

“packaged form” has the meaning given in Chapter IV

(2) (a) When an incident involves-

- (i) a discharge or probable discharge of oil, or noxious liquid substances carried in bulk, resulting from damage to the ship or its equipment, or for the purpose of securing the safety of a ship or saving life at sea;
- (ii) a discharge or probable discharge of harmful substances in packaged form; or
- (iii) a discharge during the operation of the ship of oil or noxious liquid substances in excess of the quantity or instantaneous rate permitted under this Part,

(b) Where a ship referred to in paragraph (a) is abandoned, or where a report from such a ship is incomplete or unobtainable, the owner or charterer of the ship, or their agent shall, to the fullest extent possible, assume the obligations of the master under this section.

(3) The contents of a report referred to in subsection (2) shall include-

- (a) the identities of the ships involved;
- (b) the time, type and location of the incident;
- (c) the quantity and type of harmful substance involved; and
- (d) the assistance received and salvage measures taken.

(4) The Director shall-

- (a) make all arrangements necessary for an appropriate officer or agency to receive and process all reports on incidents; and
- (b) notify the Organization with complete details of such arrangements for circulation to other MARPOL member States and member States of the Organization.

(5) Whenever the Director receives a report referred to in this section, he shall relay the report without delay to the government of the flag State of the ship involved and to the government of any other MARPOL member State which may be affected.

(6) The Director shall issue instructions to his appropriate officers and personnel to report any incident referred to in this section, and shall, if he considers it appropriate, report accordingly to the Organization and to the government of any other MARPOL member State concerned.

(7) Any person who is obliged to send a report under this section shall, when possible-

- (a) supplement the initial report as necessary and provide information concerning further developments; and
- (b) comply as fully as possible with requests from affected MARPOL member States for additional information.

(8) Reports shall be communicated by the fastest telecommunications channels available with the highest possible priority to the nearest coastal State.

(9) The Governor may make regulations for procedures to be followed in reporting incidents involving harmful substances based on guidelines developed by the Organization.

35. The Director shall communicate to the Organization-

- (a) the texts of this Part and any subsidiary legislation promulgated pursuant to this Part;
- (b) a list of nominated surveyors or recognised organisations authorised to act on its behalf in the administration of matters relating to the design, construction, equipment and operation of ships carrying harmful substances in accordance with this Part for circulation to MARPOL member States for information of their officers;

Communication of information



- (c) the specific responsibilities and conditions of the authority delegated to nominated surveyors or recognised organisations;
- (d) a sufficient number of specimens of certificates issued under this Part;
- (e) a list of reception facilities including their location, capacity and available facilities and other characteristics;
- (f) official reports or summaries of official reports insofar as they show the results of the application of this Part; and
- (g) an annual statistical report, in a form standardised by the Organization, of penalties actually imposed for violations of this Part.

Casualties to ships

36. (1) The Director shall conduct an investigation of any casualty occurring to any Cayman Islands ship to which this Part applies if such casualty produces a major deleterious effect on the marine environment.

(2) The Director shall provide the Organization with information concerning the findings of such investigation, if he considers such information to be of assistance in determining what changes to MARPOL might be desirable.

Promotion of technical cooperation

37. The Director shall promote, in consultation with the Organization and other international bodies, and with assistance and coordination by the Executive Director of the United Nations Environment Programme, support for those MARPOL member States who request technical assistance for-

- (a) the training of scientific and technical personnel;
- (b) the supply of necessary equipment and facilities for reception and monitoring;
- (c) the facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships; and
- (d) the encouragement of research,

preferably within the States concerned, thereby furthering the aims and purposes of MARPOL.

## **Chapter II - Prevention of Pollution by Oil**

Interpretation for The purpose of Chapter II

38. In this Chapter-

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the IOPP Certificate;

“clean ballast” means the ballast in a tank which since oil was last carried there in, has been so cleaned that effluent therefrom, if it were discharged from a ship which is stationary, into clean calm water on a clear day would not produce visible traces of oil on the surface of the water or on adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, except that, if the ballast is discharged through an oil discharge monitoring and control system approved by the Director, evidence based on such a system to the effect that the oil content of the effluent did not exceed fifteen parts per million shall be determinative that the ballast was clean, notwithstanding the presence of visible traces;

“combination carrier” means a ship designed to carry either oil or solid cargoes in bulk;

“crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes-

- (a) crude oil from which certain distillate fractions may have been removed; and
- (b) crude oil to which certain distillate fractions may have been added;

“crude oil tanker” means an oil tanker engaged in the trade of carrying crude oil;

“instantaneous rate of discharge of oil content” means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant;

“IOPP Certificate” means an International Oil Pollution Prevention Certificate issued under this Chapter or under MARPOL;

“new ship” means a ship-

- (a) for which the building contract was or is placed after 31 December 1975;

- (b) in the absence of a building contract, the keel of which was laid or which was at a similar stage of construction after 30 June 1976;
- (c) the delivery of which was or is after 31 December 1979; or
- (d) which has undergone a major conversion-
  - (i) for which the contract was or is placed after 31 December 1975;
  - (ii) in the absence of a contract, the construction work of which was or is begun after 30 June 1976; or
  - (iii) which was or is completed after 31 December 1979.

“oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are subject to Chapter III) and, without limiting the generality of the foregoing, includes the substances listed in Schedule 3.

“oil fuel” means any oil used as fuel in connection with the propulsion and auxiliary machinery of the ship in which such oil is carried.

“oily mixture” means a mixture with any oil content.

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes-

- (a) a combination carrier;
- (b) a chemical tanker as defined in Chapter III when it is carrying a cargo or part cargo of oil in bulk; and
- (c) a gas carrier as defined in regulation 3.20 of Chapter II-1 of the Safety Convention, when it is carrying a cargo or part cargo of oil in bulk.

“segregated ballast” means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious substances as variously defined in other Chapters; and

“slop tank” means a tank specifically designated for the collection of tank drainings, tank washings and other oily mixtures.

39. (1) Unless expressly provided otherwise, this Chapter shall apply to all ships to which this Part applies.

(2) In ships other than oil tankers fitted with cargo spaces which are constructed and utilised to carry oil in bulk of an aggregate capacity of 200 cubic metres or more, sections 54 and 55, sections 57 to 61, section 69 and regulations relating to the matters referred to in paragraphs (h), (l) and (q) of section 73, shall also apply to the construction and operation of those spaces.

(3) Where a cargo subject to Chapter III is carried in a cargo space of an oil tanker, the appropriate requirements of Chapter III shall also apply.

(4) (a) Any hydrofoil, air-cushion vehicle and other new type of vessel such as near-surface craft and submarine craft whose constructional features are such as to render the application of provisions of this Chapter and related regulations made under section 73 relating to construction and equipment unreasonable or impracticable, may be exempted by the Director from such provisions, provided that the construction and equipment of that ship provides equivalent protection against pollution by oil, having regard to the service for which it is intended.

(b) Particulars of the exemptions referred to in paragraph (a) shall be indicated in the IOPP Certificate.

(c) Where the Director allows any exemption referred to in this subsection, he shall, as soon as possible, but not more than ninety days thereafter, communicate to the Organization particulars of such exemption and the reasons therefor.

Equivalents

40. (1) Subject to subsection (2), the Director may allow any fitting, material, appliance or apparatus as an alternative to that required by this Chapter including type approval of pollution prevention equipment equivalent to that specified in MARPOL resolution A.393(X), if such fitting, material, appliance or apparatus is at least as effective as that required by this Chapter.

(2) The Director shall not allow substitution of operational methods to effect the control of discharge of oil as equivalent to those design and construction features which are provided for in this Chapter.

(3) Where the Director allows an alternative equivalent referred to in subsection (1), he shall communicate to the Organization for circulation to MARPOL member States particulars thereof, for their information and appropriate action, if any.

(4) Where the Director is informed of an alternative equivalent as referred to in this section, allowed and submitted by any MARPOL member State, and the Director has an objection, he shall communicate such objection to the Organization and to the MARPOL member State concerned within one year after the Organization circulates the alternative equivalency information as referred to in subsection (3).

Initial, renewal and intermediate surveys

41. Every Cayman Islands oil tanker of 150 gross tonnage and above, and every other Cayman Islands ship of 400 gross tonnage and above shall be subject to-

(a) an initial survey before the ship is put in service or before the IOPP Certificate required under section 49 is issued for the first time, which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material, and shall ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Chapter;

(b) a renewal survey at intervals of five years, except where subsection (2), (5), (6) or (7) of section 52 is applicable, which shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the requirements of this Chapter; and

(c) (i) one intermediate survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the Certificate which shall take the place of one of the annual surveys specified in section 42(1) which shall be such as to ensure that the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, crude oil washing systems, oily-water separating equipment and oil filtering systems, fully comply with the applicable requirements of this Chapter and are in good working order.

(ii) the intermediate surveys shall be endorsed on the Certificate issued under sections 49 or 50.

Annual and additional surveys

42. (1) Every ship mentioned in section 41 shall also undergo an annual survey within three months before or after each anniversary date of the Certificate, including a general inspection of the structure, equipment, systems, fittings, arrangements and material referred to in section 41 (a) to ensure that they have been maintained in accordance with section 47 and that they remain satisfactory for the service for which the ship is intended and such annual surveys shall be endorsed on the Certificate issued under section 49 or 50.

(2) (a) An additional survey either general or partial, according to the circumstances, shall be made on every ship mentioned in section 41 after a repair resulting from investigations prescribed in section 48, or whenever any important repairs or renewals are made.

(b) the additional survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory and that the ship complies in all respects with the requirements of this Chapter.

Nominated surveyors and recognised organisations  
2001 Revision

43. (1) Subject to subsection (2), surveys under sections 41 and 42 shall be carried out by surveyors appointed under section 414(1) or (2) of the Merchant Shipping Law (2001 Revision).

(2) The Director may entrust the surveys under sections 41 and 42 to surveyors nominated for the purpose or to organisations recognised by him, and in every such case, the Director shall ensure the completeness and efficiency of the surveys and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(3) Surveyors or organisations to whom surveys are entrusted under subsection (2) shall as a minimum be empowered by the Director to-

- (a) require repairs to a ship; and
- (b) carry out surveys and inspections if requested by the appropriate authorities of another MARPOL member State or a port State.

(4) The Director shall notify the Organization of the specific responsibilities and conditions of the authority delegated to such nominated surveyors or recognised organisations for circulation to MARPOL member States for the information of their officers.

Corrective action

44. (1) When a nominated surveyor or recognised organisation determines that the condition of the ship or its equipment does not correspond substantially with the particulars in the IOPP Certificate or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such surveyor or organisation shall immediately ensure that corrective action is taken and shall in due course notify the Director.

(2) When the Director, through his own officers, determines that a ship is in a condition referred to in subsection (1), he shall require that ship to take corrective action immediately.

Withdrawal of IOPP certificate and detention

45. If corrective action as required by section 44 is not taken-

- (a) the IOPP Certificate of the ship shall be withdrawn and the Director shall take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment; and
- (b) if the ship is in the port of another MARPOL member State, the port State authorities shall be notified immediately.

Assistance to other MARPOL member states

46. (1) When the government of another MARPOL member State or its nominated surveyor or recognised organisation, has notified the Director that a ship certified by that member State is in a port or at an offshore terminal in the Islands and has failed to take corrective action following an inspection, the Director shall give such government, surveyor or organisation any necessary assistance.

(2) Where it appears that the ship, if permitted to sail would present an unreasonable threat of harm to the marine environment, the Director shall take such steps as will ensure that the ship does not sail until it can proceed to sea, or leave the port for the purpose of proceeding to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment.

Maintenance requirements

47. The owner, master or agent of any ship to which this Chapter applies shall ensure that-

- (a) the condition of the ship and its equipment is maintained to conform with the requirements of this Chapter, as applicable, to ensure that the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment; and
- (b) after any survey of the ship under section 41 has been completed, no change is made to the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the prior approval of the Director, except the direct replacement of such equipment and fittings.

Report of accidents and defects

48. (1) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment, fittings, arrangements or material as required by this Chapter-

(a) the owner, master or agent of the ship shall report such accident or defect to the Director at the earliest opportunity, or the recognised organisation or the nominated surveyor responsible for issuing the IOPP Certificate who shall cause an investigation to be made to determine whether a survey would be necessary; and

(b) if the ship is in a port of another MARPOL member State, the owner, master or agent shall also report the accident or defect immediately to the appropriate authorities of the port State and the nominated surveyor or recognised organisation shall ascertain that such report has been made.

(2) If it is determined from an investigation made pursuant to subsection (1)(a) that a survey is necessary, it shall be carried out in accordance with this Chapter, and if the survey reveals that the ship is no longer in conformity with the requirements of this Chapter, or that it is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, the Director shall require corrective action to be taken by the ship and, if necessary, may cause the ship to be detained.

Issue or endorsement of IOPP certificate

49. (1) An IOPP Certificate shall be issued, after an initial or renewal survey in accordance with section 41 and after the applicable requirements of the appropriate regulations referred to in section 73 have been complied with to any Cayman Islands oil tanker of 150 gross tonnage and above and any other ship of 400 gross tonnage and above which are engaged in voyages to ports or offshore terminals under the jurisdiction of other MARPOL member States.

(2) The IOPP Certificate shall be issued or endorsed either by the Director or by any person or organisation duly authorised by it and in every such case the Director shall assume full responsibility for the Certificate.

Issue or endorsement of IOPP certificate upon request by MARPOL member state

50. (1) The Director may, at the request of the government of a MARPOL member State, cause a ship to be surveyed and, if satisfied that this Chapter has been complied with, shall issue or authorise the issue of an IOPP Certificate to the ship, and where appropriate endorse or authorise the endorsement of that certificate on the ship in accordance with this Chapter.

(2) An IOPP Certificate so issued shall contain a statement to the effect that it has been issued at the request of the government of a MARPOL member State and a copy of it together with a copy of the survey report shall be transmitted as early as possible to the government requesting the survey.

(3) An IOPP Certificate issued by another MARPOL member State in respect of a Cayman Islands ship at the request of the Director, shall have the same force and receive the same recognition in the Islands as an IOPP Certificate issued under this Chapter.

(4) No IOPP Certificate shall be issued to a ship which does not fly the flag of a MARPOL member State.

Form of IOPP certificate

51. An IOPP Certificate shall be in the form prescribed in Schedule 4.

Duration and validity of IOPP certificate

52. (1) Subject to subsections (2) to (9), an IOPP Certificate shall be valid for a period not exceeding five years from the date of its issue.

(2) (a) Notwithstanding subsection (1), when the renewal survey is completed within three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate

(b) When the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.

(c) When the renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.

(3) If a Certificate is issued for a period of less than five years, the Director may extend the validity of the Certificate beyond the expiry date to the maximum period specified in subsection (1), provided that the surveys referred to in sections 41(c) and 42(1) applicable when a Certificate is issued for a period of five years are carried out as appropriate.

(4) If a renewal survey has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the nominated surveyor or recognised organisation may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

(5) (a) If a ship, at the time when a Certificate expires, is not in a port in which it is to be surveyed, the Director may extend the period of validity of the Certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so.

(b) No Certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new Certificate.

(c) When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.

(6) (a) A Certificate issued to a ship engaged on short voyages which has not been extended under subsections (3) and (5) may be extended by the Director for a period of up to one month from the date of expiry stated on it.

(b) When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.

(7) In special circumstances, as determined by the Director, a new Certificate need not be dated from the date of expiry of the existing Certificate as required by subsection (2)(b), (5) or (6), and, in such circumstances, the new Certificate shall be valid to a date not exceeding five years from the date of completion of the renewal survey.

(8) If an annual or intermediate survey is completed before the period specified in section 41-

(a) the anniversary date shown on the Certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;

(b) the subsequent annual or intermediate survey required by section 41 shall be completed at the intervals prescribed by that section using the new anniversary date; and

(c) the expiry date may remain unchanged provided one or more annual or intermediate surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by section 41 are not exceeded.

(9) A Certificate issued under section 49 or 50 shall cease to be valid in any of the following cases-

(a) if the relevant surveys are not completed within the periods specified in section 41; and

(b) if the Certificate is not endorsed in accordance with sections 41(c) and 42(1).

53. (1) Upon transfer of a Cayman Islands ship to the flag of another MARPOL member State, where such State so requests within ninety days after the transfer has taken place, the Director shall transmit as soon as possible to the government of the State concerned, a copy of the IOPP Certificate carried by the ship before the transfer and, if available, a copy of the ship's most recent survey report.

(2) Where a ship is transferred to the Cayman Islands flag, a new IOPP Certificate shall only be issued when the Director is fully satisfied that the ship is in full compliance with the requirements of section 47.

Transfer of flag

Control of discharge  
of oil

54. (1) Subject to this section and sections 57 and 64, any discharge into the sea of oil or oily mixtures from ships is prohibited.

(2) Subject to subsection (3)-

- (a) discharges of oil and oily mixtures are permitted from an oil tanker provided that-
  - (i) the tanker is not within a special area;
  - (ii) the tanker is more than 50 nautical miles from the nearest land;
  - (iii) the tanker is proceeding en route;
  - (iv) the instantaneous rate of discharge of oil content does not exceed thirty litres per nautical mile;
  - (v) the total quantity of oil discharged into the sea does not exceed, for existing tankers, 1/15,000 of the total quantity of the particular cargo of which the residue formed a part, and, for new tankers, 1/30,000 of the total quantity of the particular cargo of which the residue formed a part; and
  - (vi) the tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by the regulations made pursuant to section 73.
- (b) paragraph (a) applies to discharges of oil or oily mixtures from-
  - (i) machinery space bilges of oil tankers where such oil or oily mixture is mixed with cargo oil residue, or when it is transferred to slop tanks; and
  - (ii) cargo pump-room bilges of oil tankers.

(3) Discharges of oil and oily mixtures are permitted from a ship of 400 gross tonnage and above, and from machinery space bilges of an oil tanker other than as referred to in subsection (2)(b), provided that-

- (a) the ship is not within a special area;
- (b) the ship is proceeding en route;
- (c) the oil content of the effluent without dilution does not exceed fifteen parts per million; and
- (d) the ship has in operation equipment as required by the regulations referred to in section 73.

(4) Subsections (1), (2) and (3) shall not apply to the discharge of clean or segregated ballast or unprocessed oily mixtures which without dilution have an oil content not exceeding fifteen parts per million and which do not originate from cargo pump-room bilges and are not mixed with oil cargo residues.

Ships less than 400  
gross tonnage

55. In the case of a ship of less than 400 gross tonnage other than an oil tanker whilst outside the special area, the Director shall ensure that such ship is equipped as far as practicable and reasonable with installations to ensure the storage of oil residues on board and their discharge to reception facilities or into the sea in compliance with the conditions provided in section 54.

Special areas

56. For the purposes of this Part, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the Gulfs area, the Gulf of Aden area and the Antarctic area.

Control of discharge  
of oil in special areas

57. (1) Subject to section 64 and subsections (2) and (3), any discharge into the sea of oil or oily mixture is prohibited within a special area from-

- (a) any oil tanker and any ship of 400 gross tonnage and above other than an oil tanker; or
- (b) a ship of less than 400 gross tonnage, other than an oil tanker, except when the oil content of the effluent without dilution does not exceed fifteen parts per million.

(2) Subject to section 64, any discharge into the sea of oil or oily mixture from any ship is prohibited within the Antarctic area.

- (3) (a) Subsections (1) and (2) shall not apply to the discharge of clean or segregated ballast.
- (b) Subsection (1)(a) shall not apply to the discharge of processed bilge water from machinery spaces, provided that-
  - (i) the bilge water does not originate from cargo pump-room bilges;
  - (ii) the bilge water is not mixed with oil cargo residues;
  - (iii) the ship is proceeding en route;
  - (iv) the oil content of the effluent without dilution does not exceed fifteen parts per million;

- (v) the ship has in operation oil filtering equipment complying with the regulations referred to in section 73; and
- (vi) the filtering system is equipped with a stopping device which will ensure that the discharge is automatically stopped when the oil content of the effluent exceeds fifteen parts per million.

Voyage partly through a special area

58. When a ship is on a voyage only part of which is in a special area, it may discharge outside the special area in accordance with section 54.

Special provisions for Antarctic area

59. Every Cayman Islands ship shall, before entering the Antarctic area, be fitted with a tank or tanks of sufficient capacity on board for the retention of all sludge, dirty ballast, tank washing water and other oily residues and mixtures while operating in the area and have concluded arrangements to discharge such oily residues at a reception facility after leaving the area.

Discharges containing chemicals, etc. prohibited

60. No discharge into the sea shall contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Chapter.

Investigations

61. Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, the Director shall promptly carry out an investigation of the facts bearing on the issue of whether there has been a violation of section 54, 55 or 57 which shall include, in particular, an investigation of the wind and sea conditions, the track and speed of the ship, other possible sources of the visible traces in the vicinity, and any relevant oil discharge records.

Retention of oil residues on board

62. The oily bilge waters, oil residues (sludge) and other residues which cannot be discharged into the sea in accordance with sections 54, 55 and 57 shall be retained on board and discharged to reception facilities.

Tanks for oil residues (sludge)

63. (1) Every ship of 400 gross tonnage and above shall be provided with a tank or tanks of adequate capacity, having regard to the type of machinery and length of voyage, to receive the oil residues (sludge) which cannot be dealt with otherwise in accordance with the requirements of this Chapter, such as those resulting from the purification of fuel and lubricating oils and oil leakages in the machinery spaces.

(2) (a) In new ships, such tanks shall be designed and constructed so as to facilitate their cleaning and the discharge of residues to reception facilities.

(b) Existing ships shall comply with the requirements of paragraph (a) as far as is reasonable and practicable.

(3) Piping to and from sludge tanks shall have no direct connection overboard other than the standard discharge connection as provided for by regulations referred to in section 73.

Exceptions under Chapter II

64. (1) Sections 54, 55 and 57 shall not apply to-

(a) the discharge into the sea of oil or oily mixture necessary for the purpose of securing the safety of a ship or saving life at sea;

(b) the discharge into the sea of oil or oily mixture resulting from damage to a ship or its equipment provided that-

(i) all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge; and

(ii) the owner or the master did not act either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(c) the discharge into the sea of substances containing oil, approved by the Director, when being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.



(2) Where any such discharge as is referred to in subsection (1) is contemplated to occur in waters within the jurisdiction of another State, the discharge shall be subject to the approval of the government of such State.

Provisions of reception facilities

65. There shall be provided in the Islands at oil loading terminals, repair ports, and in other ports in which ships have oily residues to discharge, facilities for the reception of such residues and oily mixtures as remain from oil tankers and other ships, adequate to meet the needs of the ships using them without causing undue delay to ships.

Location of reception facilities

66. Reception facilities described in section 65 shall be located in -

- (a) all ports and terminals in which crude oil is loaded into oil tankers where such tankers have immediately prior to arrival completed a ballast voyage of not more than seventy-two hours or not more than 1,200 nautical miles;
- (b) all ports and terminals in which oil other than crude oil in bulk is loaded at an average quantity of more than one thousand metric tons per day;
- (c) all ports having ship repair yards or tank cleaning facilities;
- (d) all ports and terminals that handle ships from which oily bilge water, oil residues (sludge) and other residues cannot be discharged in accordance with sections 54 and 55, and which are therefore required to retain such oily water and residues on board in sludge tanks required by the regulations made under section 73, or otherwise; and
- (e) all loading ports for bulk cargoes in respect of oil residues from combination carriers which cannot be discharged into the sea in accordance with sections 54 and 55.

Capacities of reception facilities

67. The capacities for reception facilities required by section 66 shall be as follows-

- (a) ports and terminals in which crude oil is loaded shall have sufficient reception facilities to receive oil and oily mixtures which cannot be discharged in accordance with section 54 from all oil tankers, including those on voyages described in section 66(a);
- (b) loading ports and terminals referred to in section 66(b) shall have sufficient reception facilities to receive oil and oily mixtures which cannot be discharged in accordance with section 57 from oil tankers which load oil other than crude oil in bulk;
- (c) all ports referred to in section 66(c) shall have sufficient reception facilities to receive all residues and oily mixtures which remain on board for disposal from ships prior to entering such yards or facilities;
- (d) all facilities provided in ports and terminals referred to in section 66(d) shall be sufficient to receive all oily bilge waters, oil residues (sludge) and other residues as are referred to in that provision; and
- (e) in facilities provided in loading ports for bulk cargoes the special problems of combination carriers shall be taken into account as appropriate.

Notice of inadequate reception facilities

68. The Director shall notify the Organization of all cases where reception facilities provided under this Chapter in the Islands or in any other MARPOL member State are alleged to be inadequate.

Oil record book

69. (1) Every oil tanker of 150 gross tonnage and above shall be provided with an Oil Record Book, Part I of which shall contain entries on machinery space operations and Part II of which shall contain entries on cargo and ballast operations.

(2) Every ship of 400 gross tonnage and above other than an oil tanker shall be provided with an Oil Record Book which shall contain entries on cargo and ballast operations as required in Part I of the Oil Record Book referred to in subsection (1).

(3) Oil Record Books, whether maintained as part of the ship's official log book or otherwise, shall be in the form prescribed in Schedule 5.

(4) The Oil Record Book shall be completed on each occasion, on a tank-to-tank basis if appropriate, whenever any of the following operations takes place in the ship-

- (a) for machinery space operations (all ships)-
  - (i) ballasting or cleaning of oil fuel tanks;
  - (ii) discharge of dirty ballast or cleaning water from tanks referred to in subparagraph (i);
  - (iii) disposal of oily residues (sludge); or

- (iv) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces; and
- (b) for cargo/ballast operations (oil tankers)-
  - (i) loading of oil cargo;
  - (ii) internal transfer of oil cargo during voyage;
  - (iii) unloading of oil cargo;
  - (iv) ballasting of cargo tanks and dedicated clean ballast tanks;
  - (v) cleaning of cargo tanks including crude oil washing;
  - (vi) discharge of ballast except from segregated ballast tanks;
  - (vii) discharge of water from slop tanks;
  - (viii) closing of all applicable valves or similar devices after slop tank discharge operations;
  - (ix) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations; or
  - (x) disposal of residues.

(5) In the event of such discharge of oil or oily mixture as is referred to in section 64 or in the event of accidental or other exceptional discharge of oil not excepted by that section, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge.

- (6) (a) Each operation described in subsection (4) shall be fully recorded without delay in the Oil Record Book so that all entries in the book appropriate to that operation are completed;
- (b) each entry shall be signed by the officer or officers in charge of the operations concerned and each completed page shall be signed by the master of the ship; and
- (c) an entry in the Oil Record Book of a MARPOL member State made in the official national language of that State shall prevail in case of a dispute or discrepancy.

(7) The Oil Record Book shall be-

- (a) kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship; and
- (b) preserved for a period of three years after the last entry has been made.

(8) (a) The Director may inspect the Oil Record Book on board-

- (i) any Cayman Islands ship to which this Part applies; and
- (ii) any other ship to which this Part applies while the ship is in a Cayman Islands port or offshore terminal;

(b) the competent authority of the government of a MARPOL member State may inspect the Oil Record Book on board any Cayman Islands ship to which this Part applies while the ship is in a port or offshore terminal of that State;

(c) the Director or competent authority may make a copy of any entry in the Oil Record Book and may require the master of the ship to certify that the copy is a true copy of such entry;

(d) any copy so made which has been certified by the master of the ship as a true copy of an entry in the ship's Oil Record Book shall be admissible in any judicial proceedings in the Islands as evidence of the facts stated in the entry; and

(e) the inspection of an Oil Record Book and the taking of a certified copy, as provided for in this subsection, shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

(9) Oil tankers of less than 150 gross tonnage shall be provided with an appropriate Oil Record Book as prescribed by the Director.

70. (1) Fixed and floating drilling rigs when engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources and other platforms shall, in respect of the discharge of platform drainage, comply with the requirements of this Chapter applicable to ships of 400 gross tonnage and above other than oil tankers, except that-

- (a) they shall be equipped as far as practicable with the installations required under section 63 and the regulations referred to in section 73;
- (b) they shall keep a record of all operations involving oil or oily mixture discharges, in a form approved by the Director; and
- (c) in any special area and subject to section 64, the discharge into the sea of oil or oily mixture shall be prohibited except when the oil content of the discharge without dilution does not exceed fifteen parts per million.

(2) Outside special areas and more than 12 nautical miles from the nearest land and subject to section 48, the discharge into the sea of oil or oily mixtures from such drilling rigs and platforms when stationary shall be prohibited except when the oil content of the discharges without dilution does not exceed 100 parts per million.

Shipboard oil pollution  
Emergency plans

71. Every Cayman Islands oil tanker of 150 gross tonnage and above and every Cayman Islands ship other than an oil tanker of 400 gross tonnage and above shall carry on board a shipboard oil pollution emergency plan as prescribed by regulations referred to in section 73 and approved by the Director.

Offences under  
Chapter II

72. (1) If any ship, or the owner or master thereof, fails to comply with this Chapter, the Schedules related thereto or regulations made under section 73, the owner and the master of the ship is each guilty of an offence and liable on conviction on indictment to a fine of one hundred thousand dollars

(2) It shall be a defence for a person charged under subsection (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of subsection (2), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

Power to make  
regulations under  
Chapter II

73. The Governor may make regulations relating to, requiring, prescribing or regulating-

- (a) the surveying of Cayman Islands ships not subject to surveys under section 41;
- (b) the designation of types of oil tankers;
- (c) segregated ballast tanks;
- (d) requirements in respect of oil tankers with dedicated clean ballast tanks;
- (e) requirements for crude oil washing;
- (f) existing tankers engaged in specific trades;
- (g) protective location of segregated ballast spaces;
- (h) segregation of oil and water ballast and carriage of oil in fore peak tanks;
- (i) retention of oil on board;
- (j) oil discharge monitoring and control systems and oily water separating and oil filtering equipment;
- (k) tanks for oil residues (sludge tanks);
- (l) pumping, piping and discharge arrangements of oil tankers;
- (m) standard discharge connections;
- (n) the provision of an Oil Record Book;
- (o) requirements for minimising oil pollution from oil tankers due to side and bottom damages;
- (p) hypothetical outflow of oil;
- (q) the limitation of size and arrangement of cargo tanks;
- (r) subdivision and stability; and
- (s) the provision of a shipboard oil pollution emergency plan.

### **Chapter III - Prevention of Pollution by Noxious Liquid Substances in Bulk**

Interpretation for the  
purpose of Chapter III

74. In this Chapter-

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the NLS Certificate;

“BCH Code” means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.20(22), as may be amended and adopted by the Organization and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an Annex;

“chemical tanker” means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an “oil tanker” as defined in section 38 when carrying a cargo or part cargo of noxious liquid substances in bulk;

“clean ballast” means ballast carried in a tank which, since it was last used to carry a cargo containing a substance in Category A, B, C or D, as provided in section 79, has been thoroughly cleaned and the residues resulting therefrom have been discharged and the tank emptied in accordance with the appropriate requirements of this Chapter;

“IBC Code” means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.19(22), as may be amended and adopted by the Organization and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an Annex;

“IGC Code” means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, 1983, as amended;

“NLS Certificate” means an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under section 107;

“liquid substances” means those substances having a vapour pressure not exceeding 2.8 kilopascals per square centimetre at a temperature of 37.8 degrees Celsius;

“noxious liquid substance” means any substance referred to in Schedule 6 or provisionally assessed under section 81 as falling into Category A, B, C, or D as provided in section 79;

“segregated ballast” means ballast water introduced into a tank permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious liquid substances as variously defined in other Chapters and which is completely separated from the cargo and oil fuel system;

“ship constructed” means, subject to section 76, a ship the keel of which is laid or which is at a similar stage of construction; and

“similar stage of construction” means the stage at which-

- (a) construction identifiable with a specific ship begins; and
- (b) assembly of that ship has commenced comprising at least 50 tons or one per cent of the estimated mass of all structural material, whichever is less.

75. (1) Unless expressly provided otherwise, this Chapter applies to all ships to which this Part applies carrying noxious liquid substances in bulk.

(2) Where a cargo subject to Chapter II is carried in a cargo space of a chemical tanker, the appropriate requirements of Chapter II shall also apply.

76. (1) Subject to subsection (2), a ship converted to a chemical tanker, irrespective of the date of construction, shall be treated as a chemical tanker constructed on the date on which such conversion commenced.

(2) For the purposes of this section-

- (a) an oil tanker or a chemical tanker previously not certified to carry safety hazard chemical cargoes but which changes to a service of carrying these cargoes shall be considered as having undergone a conversion; and
- (b) safety hazard chemical cargoes are those identified in Chapter 6 of the BCH Code or Chapter 17 of the IBC Code.

(3) Subsection (1) shall not apply to the modification of a ship which is-

Application  
of Chapter III

Conversion of a ship  
to a chemical tanker

- (a) constructed before 1 July 1986; and
- (b) certified under the BCH Code to carry only those products identified by the BCH Code as substances with pollution hazards only.

(4) Subsection (3) applies only to modifications made on oil tankers and chemical tankers and the expression “modification” referred thereto shall generally be those changes necessary to comply with this Part and include the fitting of improved stripping systems and underwater discharge arrangements but not include major structural changes such as those which might be necessary to comply with ship type requirements.

77. (1) (a) Where an amendment to this Chapter and the IBC and BCH Codes involves changes to the structure or equipment and fittings due to the upgrading of the requirements for the carriage of certain substances, the Director may modify or delay for a specified period, the application of such an amendment to ships constructed before the date of entry into force of that amendment, if the immediate application of such an amendment is considered unreasonable or impracticable;
- (b) the modification or delay of application of an amendment referred to in paragraph (a), shall be determined with respect to each substance having regard to the guidelines developed by the Organization; and
- (c) the guidelines referred to in paragraph (b) are the “Guidelines for the Application of Amendments to the List of Substances in Annex II of MARPOL 73/78 and the IBC Code and BCH Code with respect to Pollution Hazards” approved by the Marine Environment Protection Committee of the Organization at its thirty-first session.

(2) Where the Director allows a modification or delay of application of an amendment as referred to in this section, he shall submit to the Organization a report giving details of the ship or ships concerned, the cargoes carried, the trade in which each ship is engaged and the justification for the modification or delay of application of the amendment, for circulation to other MARPOL member States for their information and appropriate action, if any.

78. (1) The Director may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by this Chapter if such fitting, material, appliance or apparatus is at least as effective as that required by this Chapter.

(2) The Director shall not allow substitution of operational methods to effect the control of discharge of noxious liquid substances as equivalent to those design and construction features which are provided for in this Chapter.

(3) With respect to liquefied gas carriers carrying noxious liquid substances listed in the Gas Carrier Code, equivalency may be permitted under this section on construction and equipment requirements contained in this Chapter and in regulations made under section 116(b), when a gas carrier-

- (a) holds a Certificate of Fitness in accordance with the appropriate provisions of the IGC Code;
- (b) holds an NLS Certificate;
- (c) is provided with segregated ballast arrangements;
- (d) is provided with deep well pumps and arrangements which minimise the amount of cargo residue remaining after discharge, to the extent that the Director is satisfied on the basis of the design that the stripping requirements of this Chapter and the regulations made under section 116(b), without regard to the limiting date, are met and the cargo residue can be vented to the atmosphere through the approved venting arrangements;
- (e) is provided with a Procedures and Arrangements Manual approved by the Director which shall ensure that no operational mixing of cargo residues and water will occur and, after venting, no cargo residues will remain; and
- (f) is certified in an NLS Certificate to carry only those noxious liquid substances listed in the appropriate Gas Carrier Code.

- (4) (a) Subject to paragraph (b), where the Director allows an alternative equivalent referred to in subsection (1), he shall communicate to the Organization for circulation to MARPOL member States particulars thereof, for their information and appropriate actions, if any; and
- (b) where equivalency is granted in accordance with subsection (3), the notification required in paragraph (a) of this subsection need not be made.

Modification or delay  
of application of  
amendments

Equivalents

Categorization and listing of noxious liquid substances

79. (1) For the purposes of this Chapter, noxious liquid substances shall be categorised as follows-

(a) Category A: Noxious liquid substances which, if discharged into the sea from tank cleaning or deballasting operations, would present a major hazard to either marine resources or human health or cause serious harm to amenities or other legitimate uses of the sea and therefore justify the application of stringent anti-pollution measures.

(b) Category B: Noxious liquid substances which, if discharged into the sea from tank cleaning or deballasting operations, would present a hazard to either marine resources or human health or cause harm to amenities or other legitimate uses of the sea and therefore justify the application of special anti-pollution measures.

(c) Category C: Noxious liquid substances which, if discharged into the sea from tank cleaning or deballasting operations, would present a minor hazard to either marine resources or human health or cause minor harm to amenities or other legitimate uses of the sea and therefore require special operational conditions.

(d) Category D: Noxious liquid substances which, if discharged into the sea from tank cleaning or deballasting operations, would present a recognisable hazard to either marine resources or human health or cause minimal harm to amenities or other legitimate uses of the sea and therefore require some attention in operational conditions.

(2) For the categorisation of noxious liquid substances, reference shall be made to-

(a) the Guidelines in Schedule 7; and

(b) the noxious liquid substances carried in bulk which are subject to this Chapter and presently categorised as Category A, B, C or D, and as set out in Schedule 6.

Other liquid substances

80. (1) With respect to liquid substances other than those referred to in section 79 and the applicable Schedules, reference shall be made to the substances referred to in Schedule 8 which have been evaluated and found to fall outside Categories A, B, C and D as provided in section 79, as they are at present considered to present no harm to human health, marine resources, amenities or other legitimate uses of the sea, when discharged into the sea from tank-cleaning or deballasting operations.

(2) The discharge of bilge or ballast water or other residues or mixtures containing only substances referred to in Schedule 8 shall not be subject to any requirements under this Chapter.

Provisional assessment and categorization of substances

81. (1) Where it is proposed to carry a liquid substance in bulk which has not been categorised under section 79 or evaluated in accordance with section 80(1), the Director shall, in cooperation with the governments of other MARPOL member States involved in such proposed operation, establish and agree on a provisional assessment for the proposed operation on the basis of the Guidelines referred to in section 79(2)(a).

(2) Until full agreement, as referred to in subsection (1), is reached between the Director and the governments concerned, the substance shall be carried under the most severe conditions proposed.

(3) As soon as possible, but not later than ninety days after the first carriage of the substance, the Director shall notify the Organization and provide details of the substance and the provisional assessment for prompt circulation to all MARPOL member States for their information and consideration.

(4) Where the Director receives such details as are referred to in subsection (3) from another MARPOL member State, he shall, within ninety days, forward his comments to the Organization with a view to the assessment of the substance in question.

(5) When a substance which is not included in Schedule 6 or 8 is offered for bulk carriage, the provisional category shall be established in accordance with the applicable regulations referred to in section 116(a).

Clean or segregated ballast

82. The discharge into the sea of clean or segregated ballast shall not be subject to any requirements under this Chapter.

- Special areas
83. For the purposes of this Chapter, the special areas are the Baltic Sea area, the Black Sea area and the Antarctic area.
- Discharge of category A substances outside and within special areas
84. (1) Subject to subsection (3), the discharge into the sea of Category A substances as provided in section 79 or of those provisionally assessed as such under section 81, or ballast water, tank washings or other residues or mixtures containing such substances shall be prohibited outside and within special areas.
- (2) (a) If tanks containing such substances or mixtures as are referred to in subsection (1) are to be washed, the resulting residues shall be discharged to a reception facility until the concentration of the substance in the effluent to such facility is-
- (i) for outside special areas, at or below 0.1 percent by weight and until the tank is empty, with the exception of phosphorus, yellow or white, for which the residual concentration shall be 0.01 percent by weight; or
  - (ii) for within special areas, at or below 0.05 percent by weight and until the tank is empty, with the exception of phosphorus, yellow or white, for which the residual concentration shall be 0.005 percent by weight; and
- (b) where the resulting residues referred to in paragraph (a) are in a ship within a special area, the residues shall be discharged to a reception facility of the MARPOL member State bordering the special area.
- (3) Any water subsequently added to the tank after discharge to a reception facility as provided for in subsection (2), may be discharged into the sea within or outside special areas when all the following conditions are satisfied-
- (a) the ship is proceeding en route at a speed of at least seven knots in the case of self-propelled ships or at least four knots in the case of ships which are not self-propelled;
  - (b) the discharge is made below the waterline, taking into account the location of the sea water intakes; and
  - (c) the discharge is made at a distance of not less than 12 nautical miles from the nearest land in a depth of water of not less than twenty-five metres.
- (4) This section is subject to sections 89 and 94.
- Discharge of Category B and C substances outside special areas
85. (1) The discharge into the sea of Category B substances as provided in section 79 or of those provisionally assessed as such under section 81, or ballast water, tank washings or other residues or mixtures containing such substances shall be prohibited outside special areas except when all the following conditions are satisfied-
- (a) the ship is proceeding en route at a speed of at least seven knots in the case of self-propelled ship or at least four knots in the case of ships which are not self-propelled;
  - (b) the procedures and arrangements for discharge are approved by the Director and are based upon standards developed by the Organization to ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed one part per million;
  - (c) the maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in paragraph (b) which shall in no case exceed the greater of one cubic metre or 1/3,000 of the tank capacity in cubic metres;
  - (d) the discharge is made below the waterline, taking into account the location of the sea water intakes; and
  - (e) the discharge is made at a distance of not less than 12 nautical miles from the nearest land in a depth of water of not less than twenty-five metres.
- (2) The discharge into the sea of Category C substances as provided in section 79 or of those provisionally assessed as such under section 81, or ballast water, tank washings or other residues or mixtures containing such substances shall be prohibited outside special areas except when all the following conditions are satisfied-

- (a) the ship is proceeding en route at a speed of at least seven knots in the case of self-propelled ships or at least four knots in the case of ships which are not self-propelled;
- (b) the procedures and arrangements for discharge are approved by the Director and are based upon standards developed by the Organization to ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed ten parts per million;
- (c) the maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in paragraph (b) which shall in no case exceed the greater of three cubic metres or 1/1,000 of the tank capacity in cubic metres;
- (d) the discharge is made below the waterline, taking into account the location of the sea water intakes; and
- (e) the discharge is made at a distance of not less than twelve nautical miles from the nearest land in a depth of water of not less than twenty-five metres.

(3) This section is subject to section 94.

86. (1) Subject to sections 89 and 94, the discharge into the sea of Category B substances as provided in section 79 or of those provisionally assessed as such under section 81, or ballast water, tank washings or other residues or mixtures containing such substances shall be prohibited within special areas except when all the following conditions are satisfied-

- (a) the tank has been pre-washed in accordance with the procedure approved by the Director and based on standards developed by the Organization and the resulting tank washings have been discharged to a reception facility;
- (b) the ship is proceeding en route at a speed of at least seven knots in the case of self-propelled ships or at least four knots in the case of ships which are not self-propelled;
- (c) the procedures and arrangements for discharge are approved by the Director and are based upon standards developed by the Organization to ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed one part per million;
- (d) the discharge is made below the waterline, taking into account the location of the sea water intakes; and
- (e) the discharge is made at a distance of not less than 12 nautical miles from the nearest land in a depth of water of not less than twenty-five metres.

(2) Subject to sections 89 and 94, the discharge into the sea of Category C substances as provided in section 79 or of those provisionally assessed as such under section 81, or ballast water, tank washings or other residues or mixtures containing such substances shall be prohibited within special areas except when all the following conditions are satisfied-

- (a) the ship is proceeding en route at a speed of at least seven knots in the case of self-propelled ships or at least four knots in the case of ships which are not self-propelled;
- (b) the procedures and arrangements for discharge are approved by the Director and are based upon standards developed by the Organization to ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed one part per million;
- (c) the maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in paragraph (b) which shall in no case exceed the greater of one cubic metre or 1/3,000 of the tank capacity in cubic metres;
- (d) the discharge is made below the waterline, taking into account the location of the sea water intakes; and
- (e) the discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than twenty-five metres.

87. (1) Subject to sections 89 and 94, the discharge into the sea of Category D substances as provided in section 79 or of those provisionally assessed as such under section 81, or ballast water, tank washings or other residues or mixtures containing such substances shall be prohibited in all areas except when all the following conditions are satisfied-

Discharge of category B and C substances within special areas

Discharges of category D substances in all areas



- (a) the ship is proceeding en route at a speed of at least seven knots in the case of self-propelled ships or at least four knots in the case of ships which are not self-propelled;
- (b) such mixtures are of a concentration not greater than one part of the substance in ten parts of water; and
- (c) the discharge is made at a distance of not less than 12 nautical miles from the nearest land.

Discharge from a slop tank and meaning of "en route"

88. (1) Any residues retained on board in a slop tank, including those from cargo pump-room bilges, which contain a Category A substance, or within a special area either a Category A or a Category B substance, shall be discharged to a reception facility in accordance with sections 84 and 86(1), whichever is applicable.

(2) For the purposes of sections 84 to 87-

"en route" means that the ship is under way at sea on a course, or courses, which so far as practicable for navigational purposes will cause any discharge to be spread over as great an area of the sea as is reasonably practicable.

Special provisions for Antarctic area

89. Subject to section 94, any discharge into the sea of noxious liquid substances or mixtures containing such substances shall be prohibited in the Antarctic area.

Ventilation procedures

90. (1) Ventilation procedures approved by the Director may be used to remove cargo residues from a tank, and all such procedures shall be based on standards developed by the Organization.

(2) Any water subsequently introduced into a tank after cargo residues have been removed in accordance with subsection (1) shall be regarded as clean and shall not be subject to sections 84 to 87.

Uncategorised substances

91. Subject to sections 89 and 94, the discharge into the sea of substances which have not been categorised, evaluated or provisionally assessed and categorised in accordance with sections 79, 80 and 81 respectively, or of ballast water, tank washings or other residues or mixtures containing such substances shall be prohibited.

Retention on board of residues of category B or C substances

92. Nothing in this Chapter shall prohibit a ship from retaining on board the residues from a Category B or C cargo and discharging such residues into the sea outside a special area in accordance with section 85.

Pumping, piping and unloading arrangements

93. Every Cayman Islands ship to which this Chapter applies shall comply with the pumping, piping and unloading arrangements prescribed in the regulations referred to in section 116.

Exceptions under Chapter III

94. (1) Sections 84 to 87 and 89 to 92 shall not apply to-

- (a) the discharge into the sea of noxious liquid substances or mixtures containing such substances necessary for the purpose of securing the safety of a ship or saving life at sea;
- (b) the discharge into the sea of noxious liquid substances or mixtures containing such substances resulting from damage to a ship or its equipment-
  - (i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge; and
  - (ii) except if the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or
- (c) the discharge into the sea of noxious liquid substances or mixtures containing such substances, approved by the Director, when being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.

(2) Where any such discharge as is referred to in subsection (1) is contemplated to occur in waters within the jurisdiction of another State, the discharge shall be subject to the approval of the government of such State.

Reception facilities for noxious liquid substance:

95. (1) There shall be provided at ports and terminals of the Islands facilities for reception of such residues and mixtures containing noxious liquid substances as would remain for disposal from ships carrying them as a consequence of application of this Chapter.

(2) The reception facilities referred to in subsection (1) shall be-

- (a) adequate to meet the needs of ships using the ports and terminals without causing them undue delay; and
- (b) located at cargo loading and unloading ports and terminals, and ship repair ports undertaking repairs to chemical tankers.

Arrangements at cargo  
Unloading terminals

96. Persons in charge of ports and terminals shall ensure that-

- (a) arrangements in accordance with the regulations referred to in section 116 are provided in cargo unloading terminals to facilitate stripping of cargo tanks of ships unloading noxious liquid substances at such terminals; and
- (b) cargo hoses and piping systems of such terminals, containing noxious liquid substances received from ships unloading these substances at such terminals, are not drained back to the ship.

Notification to Organization  
regarding reception facilities

97. The Director shall notify the Organization of-

- (a) the location, type and capacity of every reception facility in the Islands provided for under this Chapter; and
- (b) all cases where reception facilities provided for under this Chapter in the Islands or in any other MARPOL member State are alleged to be inadequate.

Measures of control

98. (1) The Director shall appoint or authorise surveyors for executing measures of control with respect to noxious liquid substances in accordance with the applicable regulations referred to in section 116.

(2) The master of a ship to which this Part applies shall ensure that sections 84 to 92 and the regulations referred to in subsection (1) are complied with and that the Cargo Record Book is completed in accordance with section 99 whenever operations referred to in that section take place.

- (3) (a) The Director may grant exemptions from those provisions in the regulations referred to in subsection (1) as are specified in those regulations, only to ships unloading noxious liquid substances in a port or terminal in the Islands; and
- (b) where an exemption is granted under paragraph (a), the appropriate entry made in the Cargo Record Book shall be endorsed by the surveyor referred to in subsection (1).

Cargo record book

99. (1) Every ship to which this Chapter applies shall be provided with a Cargo Record Book whether as part of the ship's official log-book or otherwise, in the form specified in Schedule 9.

(2) The Cargo Record Book shall be completed, on a tank-to-tank basis, whenever any of the following operations with respect to a noxious liquid substance take place in the ship-

- (a) loading of cargo;
- (b) internal transfer of cargo;
- (c) unloading of cargo;
- (d) cleaning of cargo tanks;
- (e) ballasting of cargo tanks;
- (f) discharge of ballast from cargo tanks;
- (g) disposal of residues to reception facilities; or
- (h) discharge into the sea or removal by ventilation of residues in accordance with section 90.

(3) In the event of any discharge of the kind referred to in sections 34 and 94 of any noxious liquid substance or mixture containing such substance, whether intentional or accidental, an entry shall be made in the Cargo Record Book stating the circumstances of, and the reason for, the discharge.

(4) When a surveyor appointed or authorised by the Director to supervise any operations under this Chapter has inspected a ship, then that surveyor shall make an appropriate entry in the Cargo Record Book.

- (5) (a) Each operation referred to in subsections (2) and (3) shall be fully recorded without delay in the Cargo Record Book so that all the entries in the book appropriate to that operation are completed;
- (b) each entry shall be signed by the officer or officers in charge of the operation concerned and each page shall be signed by the master of the ship; and
- (c) an entry in the Cargo Record Book of a MARPOL member State made in the official national language of that State shall prevail in case of a dispute or discrepancy.
- (6) The Cargo Record Book shall-
- (a) be kept in such a place as to be readily available for inspection and, except in the case of unmanned ships under tow, shall be kept on board the ship; and
- (b) be retained for a period of three years after the last entry has been made.
- (7) (a) The Director may inspect the Cargo Record Book on board-
- (i) any Cayman Islands ship to which this Chapter applies; and
- (ii) any other ship to which this Chapter applies while the ship is in a Cayman Islands port or offshore terminal;
- (b) the competent authority of the government of a MARPOL member State may inspect the Cargo Record Book on board any Cayman Islands ship to which this Chapter applies while the ship is in a port or offshore terminal of that State;
- (c) the Director or competent authority may make a copy of any entry in the Cargo Record Book and may require the master of the ship to certify that the copy is a true copy of such entry;
- (d) any copy so made which has been certified by the master of the ship as a true copy of an entry in the ship's Cargo Record Book shall be admissible in any judicial proceedings in the Islands as evidence of the facts stated in the entry; and
- (e) the inspection of a Cargo Record Book and the taking of a certified copy as provided for in this subsection shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

100. Every Cayman Islands ship to which this Chapter applies shall be subject to-

- (a) an initial survey before the ship is put in service or before the NLS Certificate required under section 107 is issued for the first time, which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material, and which shall ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Chapter;
- (b) a renewal survey at intervals specified by the Director but not exceeding five years, except where subsections (2), (5), (6) or (7) of section 110 are applicable. The renewal survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with applicable requirements of this Chapter;
- (c) (i) An intermediate survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the Certificate which shall take the place of one of the annual surveys specified in paragraph (d);
- (ii) the intermediate survey shall be such as to ensure that the equipment and associated pump and piping systems fully comply with the applicable requirements of this Chapter and are in good working order; and
- (iii) the intermediate surveys shall be endorsed on the Certificate issued under section 107 or 108;
- (d) an annual survey within three months before or after each anniversary date of the Certificate including a general inspection of the structure, equipment, systems, fittings, arrangements and material referred to in paragraph (a) to ensure that they have been maintained in accordance with section 105 and that they remain satisfactory for the service for which the ship is intended, and such surveys shall be endorsed on the Certificate issued under section 107 or 108; and

- (e) (i) an additional survey either general or partial, according to the circumstances, shall be made after a repair resulting from investigations prescribed in section 106, or whenever any important repairs or renewals are made; and
- (ii) the survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory and that the ship complies in respects with the requirements of this Chapter.

101. (1) Subject to subsection (2), surveys under section 100 shall be carried out by surveyors appointed under section 414(1) or (2) of the Merchant Shipping Law (2001 Revision).

(2) The Director may entrust the surveys under section 100 to surveyors nominated for the purpose or to organisations recognised by it, and in every such case, the Director shall ensure the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(3) Surveyors or organisations to whom surveys are entrusted under subsection (2) shall as a minimum be empowered by the Director to-

- (a) require corrective action or repairs to a ship; and
- (b) carry out surveys and inspections if requested by the appropriate authorities of another MARPOL member State or a port State.

(4) The Director shall notify the Organization of the specific responsibilities and conditions of the Director delegated to such nominated surveyors or recognised organisations for circulation to MARPOL member States for the information of their officers.

102. (1) When a nominated surveyor or recognised organisation determines that the condition of the ship or its equipment does not correspond substantially with the particulars in the NLS Certificate or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such surveyor or organisation shall immediately ensure that corrective action is taken and shall in due course notify the Director.

(2) When the Director, through his own officers, determines that a ship is in a condition referred to in subsection (1), he shall require that ship to take corrective action immediately.

103. If corrective action as required by section 102 is not taken-

- (a) the NLS Certificate of the ship shall be withdrawn and the Director shall take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment; and
- (b) if the ship is in the port of another MARPOL member State, the port State authorities shall be notified immediately.

104. (1) When the government of another MARPOL member State or its nominated surveyor or recognised organisation, has notified the Director that a ship certified by that member State is in a port or at an offshore terminal in the Islands and has failed to take corrective action in accordance with section 102, the Director shall give such government, surveyor or organisation any necessary assistance.

(2) Where it appears that the ship, if permitted to sail would present an unreasonable threat of harm to the marine environment, the Director shall take such steps as will ensure that the ship does not sail until it can proceed to sea, or leave the port for the purpose of proceeding to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment.

Nominated surveyors and recognised organisations  
2001 Revision

Corrective action

Withdrawal of NLS certificate and detention

Assistance to other MARPOL member states

- Maintenance requirements
105. The owner, master or agent of any ship to which this Chapter applies shall ensure that-
- (a) the condition of the ship and its equipment is maintained to conform with the requirements of this Chapter, as applicable, to ensure that the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment; and
  - (b) after any survey of the ship under section 100 has been completed, no change is made to the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the prior approval of the Director, except the direct replacement of such equipment and fittings.
- Report of accidents and defects
106. (1) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment, fittings, arrangements or material as required by this Chapter-
- (a) the owner, master or agent of the ship shall report such accident or defect to the Director at the earliest opportunity, the recognised organisation or the nominated surveyor responsible for issuing the NLS Certificate who shall cause an investigation to be made to determine whether a survey would be necessary; and
  - (b) if the ship is in a port of another MARPOL member State, the owner, master or agent shall also report the accident or defect immediately to the appropriate authorities of the port State and the nominated surveyor or recognised organisation shall ascertain that such report has been made.
- (2) If it is determined from an investigation made pursuant to subsection (1)(a) that a survey is necessary, it shall be carried out in accordance with this Chapter and if the survey reveals that the ship is no longer in conformity with the requirements of this Chapter, or that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, the Director shall require corrective action to be taken by the ship and, if necessary, may cause the ship to be detained.
- Issue or endorsement of NLS certificate
107. (1) An NLS Certificate shall be issued, after an initial or renewal survey in accordance with section 100 and after the applicable requirements of the appropriate regulations referred to in section 116 have been complied with by any Cayman Islands ship to which this Chapter applies and which is engaged in voyages to ports or offshore terminals under the jurisdiction of other MARPOL member States.
- (2) The NLS Certificate shall be issued or endorsed either by the Director or by any person or organisation duly authorised by him and in every such case the Director shall assume full responsibility for the Certificate.
- Issue or endorsement of NLS certificate upon request by a MARPOL member State
108. (1) The Director may at the request of the government of a MARPOL member State cause a ship to be surveyed and, if satisfied that this Chapter has been complied with, shall issue or authorise the issue of an NLS Certificate to the ship, and where appropriate endorse or authorise the endorsement of that Certificate on the ship in accordance with this Chapter.
- (2) An NLS Certificate so issued shall contain a statement to the effect that it has been issued at the request of the government of a MARPOL member State and a copy of it together with a copy of the survey report shall be transmitted as early as possible to the government requesting the survey.
- (3) An NLS Certificate issued by another MARPOL member State in respect of a Cayman Islands ship at the request of the Director, shall have the same force and receive the same recognition in the Islands as an NLS Certificate issued under this Chapter.
- (4) No NLS Certificate shall be issued to a ship which does not fly the flag of a MARPOL member State.
- Form of NLS certificate
109. An NLS Certificate shall be in the form prescribed in Schedule 10.

Duration and validity of  
NLS certificate

110. (1) Subject to this section, an NLS Certificate shall be valid for a period not exceeding five years from the date of its issue.
- (2) (a) Notwithstanding the requirements of subsection (1), when the renewal survey is completed within three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate;
- (b) when the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate; and
- (c) when the renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.
- (3) If a Certificate is issued for a period of less than five years, the Director may extend the validity of the Certificate beyond the expiry date to the maximum period specified in subsection (1) provided that the surveys referred to in section 100 (c) and (d) applicable when a Certificate is issued for a period of five years are carried out as appropriate.
- (4) If a renewal survey has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the nominated surveyor or recognised organisation may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.
- (5) (a) If a ship at the time when a Certificate expires is not in a port in which it is to be surveyed, the Director may extend the period of validity of the Certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so;
- (b) no Certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new Certificate; and
- (c) when the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.
- (6) (a) A Certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Director for a period of up to one month from the date of expiry stated on it; and
- (b) when the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted
- (7) In special circumstances, as determined by the Director, a new Certificate need not be dated from the date of expiry of the existing Certificate as required by subsection (2)(b), (5) or (6) and in such circumstances, the new Certificate shall be valid to a date not exceeding five years from the date of completion of the renewal survey.
- (8) If an annual or intermediate survey is completed before the period specified in section 100-
- (a) the anniversary date shown on the Certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;
- (b) the subsequent annual or intermediate survey required by section 100 shall be completed at the intervals prescribed by that section using the new anniversary date; and

(c) the expiry date may remain unchanged provided one or more annual or intermediate surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by section 100 are not exceeded.

(9) A Certificate issued under section 107 or 108 shall cease to be valid in any of the following cases-

- (a) if the relevant surveys are not completed within the periods specified under section 100; and
- (b) if the Certificate is not endorsed in accordance with section 100(c) and (d).

Transfer of flag

111. (1) Upon transfer of a Cayman Islands ship to the flag of another MARPOL member State, where such State so requests within ninety days after the transfer has taken place, the Director shall transmit as soon as possible to the government of the State concerned, a copy of the NLS Certificate carried by the ship before the transfer and, if available, a copy of the ship's most recent survey report.

(2) Where a ship is transferred to the Cayman Islands flag, a new NLS Certificate shall only be issued when the Director is fully satisfied that the ship is in full compliance with the requirements of section 105.

Survey and certification of chemical tankers

112. Notwithstanding sections 100 to 111, chemical tankers which have been surveyed and certified by MARPOL member States in accordance with the IBC Code or BCH Code, as applicable, shall be deemed to have complied with sections 100 to 111, and the certificate issued under the IBC Code or BCH Code shall have the same force and receive the same recognition as an NLS Certificate issued under section 107.

Requirements for minimising accidental pollution

113. (1) This section applies only to Cayman Islands ships carrying in bulk Category A, B or C substances as provided in section 79.

(2) The design, construction, equipment and operation of ships referred to in subsection (1) shall be such as to minimise the uncontrolled discharge into the sea of such substances.

(3) Chemical tankers constructed on or after 1 July 1986 shall comply with the requirements of the IBC Code.

(4) (a) Chemical tankers constructed before 1 July 1986-

- (i) for which the building contract is placed on or after 2 November, 1973, and which are engaged on voyages to ports or terminals outside the Islands;
- (ii) but which, on or after 1 July 1983, are engaged solely on voyages between ports or terminals within the Islands,

shall comply with the requirements of the BCH Code as applicable to ships referred to in paragraph 1.7.2 of that Code.

(b) Chemical tankers constructed-

- (i) before 1 July, 1986, for which the building contract is placed before 2 November, 1973, and which are engaged on voyages to ports or terminals outside the Islands; and
- (ii) before 1 July, 1983, which are engaged on voyages between ports or terminals within the Islands,

shall comply with the requirements of the BCH Code as applicable to ships referred to in paragraph 1.7.3 of that Code.

(5) In respect of ships other than chemical tankers carrying Category A, B or C substances in bulk, the Director shall establish appropriate measures based on the Guidelines developed by the Organization in order to ensure that subsection (2) is complied with.

Carriage and discharge of oil-like substances

114. Notwithstanding anything contained in this Part, noxious liquid substances referred to in Schedule 6 as falling under Category C or D, and identified by the Organization as oil-like substances under the criteria developed by the Organization, may be carried on an oil tanker as defined in Chapter II and discharged in accordance with the provisions of that Chapter provided-

- (a) the ship complies with Chapter II as applicable to product carriers as defined in that Chapter;

(b) the ship carries an IOPP Certificate and its Supplement B and the certificate is endorsed to indicate that the ship may carry oil-like substances in conformity with this section and the endorsement includes a list of oil-like substances the ship is allowed to carry;

(c) in the case of Category C substances the ship complies with the ship type 3 damage stability requirements of-

- (i) the IBC Code in the case of a ship constructed on or after 1 July, 1986; or
- (ii) the BCH Code as applicable under section 113 in the case of a ship constructed before 1 July, 1986; and

(d) the oil content meter in the oil discharge monitoring and control system of the ship is approved by the Director for use in monitoring the oil-like substances to be carried.

Offences under Chapter III

115. (1) If any ship, or the owner or master thereof, fails to comply with any requirement of this Chapter or the Schedule related thereto or any regulations made pursuant to section 116, the owner and the master of the ship is each guilty of an offence, and liable on conviction on indictment to a fine not exceeding one hundred thousand dollars.

(2) It shall be a defence for a person charged under subsection (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed, save for the operation of subsection (2), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

Power to make regulations,  
under Chapter III

116. The Governor may make regulations relating to, requiring, prescribing or regulating-

- (a) the provisional categorisation of substances not included in Schedule 6 or 8;
- (b) equivalency provisions for gas carriers;
- (c) guidelines for the categorisation of noxious liquid substances;
- (d) guidelines for the provisional assessment of liquids transported in bulk;
- (e) pumping, piping and unloading arrangements for ships to which this Chapter applies as provided in section 93;
- (f) standards for procedures and arrangements for the discharge of noxious liquid substances;
- (g) types of reception facilities and arrangements in cargo unloading terminals as provided in section 96;
- (h) measures of control with respect to noxious liquid substances as provided in section 98 for-
  - (i) Category A substances in all areas;
  - (ii) Category B and C substances outside special areas;
  - (iii) Category B substances within special areas;
  - (iv) Category C substances within special areas; and
  - (v) Category D substances in all areas;
- (i) guidelines for minimisation of accidental pollution;
- (j) the provision of a Cargo Record Book;
- (k) the survey and certification of ships not required to hold an IOPP Certificate for the carriage of noxious liquid substances in bulk;
- (l) the survey and certification of chemical tankers; and
- (m) the categorisation of oil-like substances.



## Chapter IV - Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form

Interpretation for the purpose of Chapter IV

117. In this Chapter-

“harmful substances” means those substances which are identified as marine pollutants in the IMDG Code and includes empty packagings which have been used previously for the carriage of harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment;

“IMDG Code” means the International Maritime Dangerous Goods Code adopted by the Organization by Resolution A.716(17) as amended from time to time by the Maritime Safety Committee of the Organization; and

“packaged form” means the forms of containment specified for harmful substances in the IMDG Code.

Application of Chapter IV

118. (1) Unless expressly provided otherwise, this Chapter applies to all ships to which this Part applies, carrying harmful substances in packaged form.

(2) For the purposes of identifying harmful substances in packaged form reference shall be made to the guidelines contained in Schedule 11.

Prohibitions on carriage, shipment and jettisoning of harmful substances

119. (1) All ships to which this Chapter applies are prohibited from-

- (a) carrying harmful substances in packaged form except in accordance with this Chapter; or
- (b) jettisoning harmful substances in packaged form.

(2) No person shall ship or offer for shipment from a Cayman Islands port harmful substances in packaged form except in accordance with this Chapter.

Packing

120. Packages shall be adequate to minimise the hazard to the marine environment having regard to their specific contents.

Marking and labelling

121. (1) Packages containing a harmful substance, shall be durably marked with the correct technical name and shall be durably marked or labelled to indicate that the substance is a marine pollutant.

(2) Trade names alone shall not be used to identify a harmful substance by its correct technical name.

(3) The identification of packages containing a harmful substance as referred to in this section shall be supplemented where possible by other internationally recognised identification marks, numbers or names.

(4) The method of marking the correct technical name and of affixing labels on packages containing a harmful substance shall be such that the information will still be identifiable on packages surviving at least three months' immersion in the sea.

(5) In considering suitable marking and labelling, account shall be taken of the durability of the materials used and of the surface of the package.

(6) Packages containing small quantities of harmful substances are exempted from the marking requirements in accordance with the specific exemptions provided for in the IMDG Code.

Documentation

122. (1) In all documents relating to the carriage of harmful substances by sea where such substances are named, the correct technical name of each such substance shall be used and the substance shall be further identified by the addition of the words “MARINE POLLUTANT”

(2) Trade names alone shall not be used to identify a harmful substance by its correct technical name.

(3) The shipping documents supplied by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked, labelled or placarded as appropriate and in proper condition for carriage to minimise the hazard to the marine environment.

(4) (a) Each ship carrying harmful substances shall have a special list or manifest setting forth the harmful substances on board and the location thereof;

(b) a detailed stowage plan setting out the location of all harmful substances on board may be used in lieu of the special list or manifest referred to in paragraph (a); and  
(c) copies of the documents referred to in this subsection shall also be retained on shore by the owner of the ship or his representative until the harmful substances are unloaded and a copy of one of these documents shall be made available before departure to the Director.

(5) Where the ship carries a special list or manifest or a detailed stowage plan required for the carriage of dangerous goods by the Safety Convention, the documents required by this section may be combined with those for dangerous goods; and where documents are so combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Chapter.

(6) In this section-

“documents” includes information available through the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques as an aid to paper documentation.

Stowage

123. Harmful substances shall be properly stowed and secured so as to minimise the hazards to the marine environment without impairing the safety of the ship and persons on board.

Quantity limitations

124. (1) The Director may, in any individual case, prohibit the carriage of harmful substances or limit the quantity of harmful substances which may be carried aboard any one ship.

(2) In limiting the quantity, due consideration shall be given to size, construction and equipment of the ship as well as the packaging and the inherent nature of the substance.

Power to make regulations under Chapter IV

125. The Governor may make regulations prescribing-

(a) detailed requirements on packing, marking, labelling, documentation, stowage, quantity limitations and exceptions for preventing or minimising pollution of the marine environment, in conformity with the IMDG Code;

(b) terms and conditions under which ships to which this Chapter applies may carry, or persons may ship or offer for shipment, harmful substances in packaged form;

(c) measures to be taken to regulate the washing of leakages overboard, based on the physical, chemical and biological properties of harmful substances; and

(d) inspections to be made by the Director of all ships to which this Chapter applies to ensure compliance with this Chapter.

Exceptions under Chapter IV

126. (1) The requirements of this Chapter shall not apply to ships' stores and equipment.

(2) Section 119(1)(b) shall not apply where jettisoning of harmful substances in packaged form may be necessary for the purpose of securing the safety of the ship or saving life at sea.

(3) All ships to which this Chapter applies shall comply with the measures referred to in section 125(c) provided that such compliance will not impair the safety of the ship and persons on board.

Offences under Chapter IV

127. (1) An owner, master or agent of a ship that accepts goods for carriage by sea in contravention of section 119(1)(a) is guilty of an offence and is liable on conviction on indictment to a fine of fifty thousand dollars.

(2) Subject to section 126(2), whoever contravenes section 119(1)(b) is guilty of an offence and liable on conviction to a fine of ten thousand dollars and shall also be liable to pay any costs which may be incurred in connection with the recovery of such substances.

(3) Whoever fails to take the measures prescribed under section 125(c) is guilty of an offence and liable on summary conviction to a fine of five thousand dollars unless he can show that compliance with such measures would have impaired the safety of the ship and persons on board.

(4) It shall be a defence for a person charged with an offence under this section to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) Where an offence under this section is committed, or would have been committed save for the operation of subsection (4), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

### **Chapter V – Prevention of Pollution by Sewage**

128. In this Chapter-

“holding tank” means a tank used for the collection and storage of sewage;

(a) for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, on or after the date of entry into force of this Chapter; or

(b) the delivery of which is three years or more after the date of entry into force of this Chapter;

“sewage” means-

(a) drainage and other wastes from any form of toilets, urinals, and WC scuppers;

(b) drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;

(c) drainage from spaces containing living animals; or

(d) other waste waters when mixed with the drainages defined above; and

“SPPC” means Sewage Pollution Prevention Certificate and includes an International Sewage Pollution Prevention Certificate.

129. (1) Subject to subsections (2) and (3), this Chapter applies to all ships to which this Part applies which are-

(a) (i) new ships of 200 gross tonnage and above;

(ii) new ships of less than 200 gross tonnage which are certified to carry more than ten persons; or

(iii) new ships which do not have a measured gross tonnage and are certified to carry more than ten persons; or

(b) (i) existing ships of 200 gross tonnage and above, ten years after the date of entry into force of this Law;

(ii) existing ships of less than 200 gross tonnage which are certified to carry more than ten persons, ten years after the date of entry into force of this Law; or

(iii) existing ships which do not have a measured gross tonnage and are certified to carry more than ten persons, ten years after the date of entry into force of this Law.

(2) Upon the entry into force of this Law, this Chapter shall apply to all Cayman Islands ships that are existing ships, to the extent provided for in this Chapter and as may be prescribed.

(3) This Chapter shall apply to ships of MARPOL member States from the date on which Annex IV of MARPOL enters into force for the Islands and the words “date of entry into force of this Law” in this section shall be construed accordingly.

130. (1) Every Cayman Islands ship which is required to comply with this Chapter and which is engaged in voyages to ports or offshore terminals under the jurisdiction of other MARPOL member States shall be subject to-

(a) an initial survey before the ship is put in service or before the certificate required under section 132 is issued for the first time, which shall include a survey of the ship and shall be such as to ensure-

(i) when the ship is fitted with a sewage treatment plant, the plant shall meet operational requirements based on standards and the test methods developed by the Organization;

(ii) when the ship is fitted with a system to comminute and disinfect the sewage, such a system shall be of a type approved by the Director;

(iii) when the ship is equipped with a holding tank the capacity of such tank shall be to the satisfaction of the Director for the retention of all sewage having regard to the operation of the ship, the number of persons on board and other relevant factors and such holding tank shall have a means to indicate visually the amount of its contents;

Interpretation for the purpose of Chapter V

Application of Chapter V

Surveys

(iv) that the ship is equipped with a pipeline leading to the exterior convenient for the discharge of sewage to a reception facility and that such a pipeline is fitted with a standard shore connection in compliance with regulation 11 of Annex IV to MARPOL; and

(v) that the equipment, fittings, arrangements and material fully comply with the applicable requirements of this Chapter; and

(b) periodical surveys at five year intervals, or such lesser intervals as the Director may specify, such as to ensure that the equipment, fittings, arrangements and material fully comply with the applicable requirements of this Chapter, except that where the duration of the SPPC is extended pursuant to section 135(2), the intervals of the periodical survey may be extended correspondingly.

(2) The Director shall establish appropriate measures for ships which are not subject to subsection (1) in order to ensure that this Chapter is complied with.

(3) (a) Subject to paragraph (b), surveys of the ship as regards enforcement of this Chapter shall be carried out by surveyors appointed under section 414(1) or (2) of the Merchant Shipping Law (2001 Revision).

(b) The Director may entrust the surveys either to surveyors nominated for the purpose or to organisations recognised by him, and in every such case, the Director shall ensure the completeness and efficiency of the surveys.

(4) After any survey of the ship under this section has been completed, no significant change shall be made in the equipment, fittings, arrangements, or material covered by the survey without the approval of the Director, except the direct replacement of such equipment or fittings.

(5) In subsection (4)-

“significant”, in reference to a change, has the same meaning as in section 135(4).

131. (1) The Governor may make regulations prescribing requirements on board ships in respect of-

(a) sewage treatment plants;

(b) systems to comminute and disinfect sewage;

(c) holding tanks;

(d) maintenance of records and documents including copies of SPPC's issued by the Director and issuing copies thereof to other MARPOL member States upon request;

(e) Cayman Islands ships that are existing ships to comply with this Chapter, including the issue of SPPC's to such ships; and

(f) the rate of discharge of sewage from holding tanks,

and may prescribe by regulation such other standards, conditions and requirements regulating or prohibiting discharges of sewage of ships as may be deemed appropriate for the preservation of human health, and for the marine environment including the conservation of natural resources therein.

(2) The regulations referred to in subsection (1) shall be made in accordance with standards and guidelines developed by the Organization.

132. (1) A SPPC shall be issued to a ship after survey in accordance with section 130 and after the applicable requirements of the regulations referred to in section 131 have been complied with.

(2) The SPPC shall be issued either by the Director or by any person or organisation duly authorised by him and in every such case the Director shall assume full responsibility for the SPPC.

2001 Revision

Power to make regulations under Chapter V

Issue of international sewage pollution prevention certificate

Issue of SPPC upon request by a MARPOL member state

133. (1) The Director may at the request of the government of a MARPOL member State cause a ship to be surveyed and, if satisfied that this Chapter has been complied with, shall issue or authorise the issue of a SPPC to the ship in accordance with this Chapter.

(2) A SPPC so issued shall contain a statement to the effect that it has been issued at the request of the government of a MARPOL member State and a copy of it together with a copy of the survey report shall be transmitted as early as possible to the government requesting the survey.

(3) A SPPC issued by another MARPOL member State in respect of a Cayman Islands ship at the request of the Director, shall have the same force and receive the same recognition in the Islands as an SPPC issued under this Chapter.

(4) No SPPC shall be issued to a ship which does not fly the flag of a MARPOL member State.

Form of SPPC

134. An SPPC shall be in the form prescribed in Schedule 12.

Duration of SPPC

135. (1) Subject to this section, a SPPC shall be valid for five years from the date of its issue and may be renewed for successive periods of five years provided the ship remains in service as a Cayman Islands ship.

(2) If a SPPC expires while the ship is at sea, the Director may, where it appears proper and reasonable to do so, grant an extension for its renewal up to a period not to exceed five months, only for the purpose of allowing the ship to complete the voyage to the Cayman Islands or arrive at the port where it is to be surveyed, and the ship shall not be entitled by virtue of such extension, to leave the port where the ship is situated without obtaining a new certificate.

(3) A SPPC shall cease to be valid-

(a) if significant alterations have taken place in the equipment, fittings, arrangement or material required without the approval of the Director, except the direct replacement of such equipment or fittings; or

(b) upon transfer of such ship to the flag of another State, except as provided in subsection (5).

(4) For the purposes of subsection (3)(a), an alteration shall be deemed "significant" where the construction, systems, fittings, arrangements or material have been altered to the extent that the ship no longer meets the requirements of this Chapter.

(5) (a) Upon transfer of a ship between the Cayman Islands flag and the flag of another MARPOL member State, the SPPC shall remain in force for a period not exceeding five months provided that it would not have expired before the end of that period, or until the Director or the competent authority of the other MARPOL member State issues a replacement certificate, whichever is earlier; and

(b) following the transfer of a Cayman Islands ship to the flag of another MARPOL member State, the Director shall, as soon as possible, transmit to the government of the MARPOL member State concerned, a copy of the SPPC carried by the ship before the transfer and, if available, a copy of the relevant survey report.

Discharge controls

136. (1) Subject to this section, the discharge of sewage into the sea is prohibited unless-

(a) the sewage has been comminuted and disinfected using a system approved by the Director in accordance with the regulations referred to in section 131(1)(b) at a distance of more than 4 nautical miles from the nearest land;

(b) the sewage has not been comminuted and disinfected but is discharged periodically into the sea at a distance of more than 12 nautical miles from the nearest land while the ship is en route at a rate as prescribed and proceeding at not less than four knots;

(c) the ship has in operation an approved sewage treatment plant which has been certified by the Director as meeting the operational requirements referred to in section 130(1)(a)(i); and

(i) the test results of the plant are set out in the ship's SPPC; and

(ii) the effluent does not produce visible floating solids in, nor cause discoloration of, the surrounding water; or

(d) the ship is discharging sewage in waters under the jurisdiction of another State in accordance with less stringent requirements imposed by that State.

(2) When the sewage is mixed with wastes or waste water having different discharge requirements, the more stringent requirements shall apply.

Public notice of standards

137. The sewage discharge standards set out in section 136 and the applicable regulations referred to in section 131, shall be posted in a conspicuous place on board on all Cayman Islands ships to which this Chapter applies and the crew of such ships shall be trained to comply with such standards.

Exceptions under Chapter V

138. The discharge standards set out in section 136 and the applicable regulations referred to in section 131, shall not apply-

(a) if discharge of sewage from a ship is necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

(b) where damage to the ship or its equipment has occurred and reasonable steps have been taken before and after the damage to prevent or minimise the discharge.

Sewage reception facilities and standard discharge connections

139. (1) There shall be provided accessible and adequate sewage reception facilities at ports and terminals in the Islands.

(2) To enable pipes of reception facilities to be connected with the ship's discharge pipeline, both lines shall be fitted with a standard discharge connection in accordance with the table in Schedule 13.

Inspection of sewage reception facilities

140. Sewage reception facilities shall be periodically inspected by the Director or a person designated by the Director for such purpose, to ensure that the requirements of this Chapter are complied with.

Notice of inadequate sewage reception facilities

141. The Director shall notify the Organization of all cases where the sewage reception facilities of the Cayman Islands, or facilities provided by other MARPOL member States are alleged to be inadequate.

Offence under Chapter V

142. (1) If any ship, or the owner or master thereof, fails to comply with any requirement of this Chapter, or any Schedule related thereto or any regulations made pursuant to section 131, the owner and the master of the ship are each guilty of an offence and liable on summary conviction to a fine of ten thousand dollars .

(2) It shall be a defence for a person charged under subsection (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of subsection (2), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

## **Chapter VI - Prevention of Pollution by Garbage**

Interpretation for the purpose of Chapter VI

143. In this Chapter-

“cargo-associated waste” means all materials which have become wastes as a result of use on board a ship for cargo stowage and handling and includes, (but is not limited to), dunnage, shoring pallets, lining and packing materials, plywood, paper, cardboard, wire and steel strapping;

“cargo residues” means remnants in small quantities of any cargo material onboard-

(a) that cannot be placed in proper cargo holds, loading excess and spillage; or

(b) which remains in cargo holds and elsewhere after unloading procedures are completed, unloading residual and spillage;

“contaminated rags” means rags which have been saturated with a substance defined as a harmful substance under this Chapter;

“contaminated waste” includes all wastes that contain foods or agricultural products the importation of which is restricted under the law of the Islands;

“domestic waste” means all types of food wastes, sewage and wastes generated in the living spaces on board the ship;

“food waste” means any spoiled or unspoiled fruits, vegetables, dairy products, poultry, meat products, food scraps, food particles and other victual substances, and all other materials contaminated by such wastes, generated aboard ship;

“garbage” means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically but does not include -

- (a) substances which are defined or listed in other Chapters; and
- (b) small quantities of food wastes for the specific purpose of fish feeding in connection with fishing or tourist operations;

“maintenance waste” means materials collected by the engine department and the deck department while maintaining and operating the vessel, such as soot, machinery deposits, scraped paint, deck sweeping, wiping wastes and oily rags;

“oily rags” means rags which have been saturated with oil as controlled under Chapter II;

“operational waste” means all cargo-associated wastes and maintenance waste including ash and clinkers, and cargo residues; and

“waste” means useless, unneeded or superfluous matter which is to be discarded.

144. Unless expressly provided otherwise, this Chapter applies to all ships to which this Part applies.

145. In this Chapter-

“the special areas” are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the “Gulfs area”, the North Sea area, the Antarctic area and the Wider Caribbean Region.

146. Subject to sections 147, 148 and 149-

- (a) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags, is prohibited;
- (b) the disposal into the sea of the following garbage shall be made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than-
  - (i) 25 nautical miles for dunnage, lining and packing materials which will float; or
  - (ii) 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse;
- (c) disposal into the sea of garbage specified in subparagraph (b)(ii) may be permitted when it has passed through a comminuter or grinder until it is capable of passing through a screen with openings no greater than twenty-five millimetres and shall be made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than three miles.

147. (1) Subject to subsection (2), disposal of garbage is prohibited from fixed or floating platforms engaged in the exploration, exploitation, and associated offshore processing of sea-bed mineral resources and from all ships when alongside or within five hundred metres of such platforms.

(2) Disposal of food wastes is permitted provided they are first passed through a comminuter or grinder until they are capable of passing through a screen with openings no greater than twenty-five millimetres and may be discharged from fixed or floating platforms more than 12 nautical miles from land and all other ships when alongside or within five hundred metres of such platforms.

148. Subject to section 152-

- (a) disposal into the sea of-
    - (i) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags; and
    - (ii) all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;
- is prohibited within special areas; and

Application of  
Chapter VI  
Special areas

Disposal of  
Garbage outside  
special areas

Disposal of garbage  
From fixed and  
Floating platforms

Disposal of garbage  
within special areas

(b) within special areas, except as provided in section 149, disposal into the sea of food wastes shall be made as far as practicable from land, but in any case not less than 12 nautical miles from the nearest land.

Special provisions for  
Wider Caribbean Region

149. (1) Subject to section 152, disposal into the Wider Caribbean Region of food wastes which have been passed through a comminuter or grinder shall be made as far as practicable from land, but in any case, subject to section 147, not less than 3 nautical miles from the nearest land.

(2) Such comminuted or ground food wastes as are referred to in subsection (1) shall be capable of passing through a screen with openings no greater than twenty-five millimetres.

(3) Disposal into the sea within the Wider Caribbean Region of contaminated waste is prohibited or limited to the same extent that importation of the relevant foods or agricultural products is prohibited or limited under the law of the Islands.

Mixed wastes

150. When garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

Special provisions for  
Antarctic area

151. Every Cayman Islands ship shall, before entering the Antarctic area, have sufficient capacity on board for the retention of all garbage while operating in the area and have concluded arrangements to discharge such garbage at a reception facility after leaving the area.

Exceptions under  
Chapter VI

152. Sections 147 to 151 do not apply to-

(a) the disposal of garbage from a ship where such disposal is necessary to secure the safety of a ship and those on board or for saving life at sea;

(b) the escape of garbage resulting from damage to a ship or its equipment, provided all reasonable precautions have been taken before and after the damage to prevent or minimise the escape; or

(c) the accidental loss of synthetic fishing devices, provided all reasonable precautions have been taken to prevent such loss.

Garbage reception  
facilities

153. There shall be provided in the Islands adequate and accessible garbage reception facilities in accordance with the regulations made pursuant to section 158.

Inspection of reception  
facilities and notice  
of inadequate facilities

154. (1) Reception Facilities shall be periodically inspected by the Director or a person designated by him for the purpose to ensure that they meet the requirements of this Chapter.

(2) The Director shall notify the Organization of all cases where reception facilities in the Islands or in other MARPOL member States are alleged to be inadequate.

Placards

155. (1) Every ship of 12 metres in length overall shall display placards which notify the crew and passengers of the disposal requirements of sections 146, 148 and 149 as applicable.

(2) The placards shall be written in English, or for ships engaged in voyages to ports or offshore terminals in other MARPOL member States, in English or in French.

Garbage management  
plans

156. (1) Every ship of 400 gross tonnage and above, and every ship which is certified to carry fifteen persons or more, shall carry a garbage management plan which the crew shall follow.

(2) The garbage management plan referred to in subsection (1) shall-

(a) provide written procedures for collecting, storing, processing and disposing of garbage, including the use of the equipment on board;

(b) designate the person in charge of carrying out the plan; and

(c) be in accordance with the guidelines developed by the Organization and written in the working language of the crew.

Garbage record book

157. (1) Every ship of 400 gross tonnage and above and every ship which is certified to carry fifteen persons or more engaged in voyages to ports or offshore terminals of other MARPOL member States, shall be provided with a Garbage Record Book.



- (2) The Garbage Record Book, whether as a part of the ship's official log book or otherwise, shall be in the form specified in Schedule 14.
- (3) Each discharge operation, or completed incineration, shall be recorded in the Garbage Record Book and signed for on the date of the incineration or discharge by the officer in charge, and each completed page of the Garbage Record Book shall be signed by the master of the ship.
- (4) An entry in the Garbage Record Book of a MARPOL member State made in an official national language of that State shall prevail in case of a dispute or discrepancy.
- (5) The entry for each incineration or discharge shall include the date and time, position of the ship, description of the garbage and the estimated amount incinerated or discharged.
- (6) The Garbage Record Book shall be kept on board the ship and in such a place as to be available for inspection at a reasonable time and shall be preserved for a period of two years after the last entry is made on the record.
- (7) In the event of discharge, escape or accidental loss referred to in section 152, an entry shall be made in the Garbage Record Book of the circumstances of, and the reasons for, the loss.
- (8) The Director may waive the requirements for Garbage Record Books for any ship engaged on voyages of one hour or less in duration which is certified to carry fifteen persons or more.
- (9) (a) The Director may inspect the Garbage Record Book on board-
- (i) any Cayman Islands ship to which this Chapter applies; and
  - (ii) any other ship to which this Chapter applies while the ship is in a Cayman Islands port or off-shore terminal;
- (b) the competent authority of the government of a MARPOL member State may inspect the Garbage Record Book on board any Cayman Islands ship to which this Chapter applies while the ship is in its ports or offshore terminals and may make a copy of any entry in that book, and may require the master of the ship to certify that the copy is a true copy of such an entry;
- (c) any copy made under paragraph (b), which has been certified by the master of the ship as a true copy of an entry in the Garbage Record Book, shall be admissible in any judicial proceedings as evidence of the facts stated in the entry; and
- (d) the inspection of a Garbage Record Book and the taking of a certified copy by the competent authority under this subsection shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Power to make Regulations under Chapter VI

158. The Governor shall make regulations prescribing criteria for determining the adequacy of garbage reception facilities at ports and terminals in the Islands and measures to be adopted to ensure adequacy and accessibility without causing undue delay to ships.

Regional cooperation

159. Wherever possible, the Director shall pursue ways and means for regional cooperation with other States of the Wider Caribbean Region with respect to land disposal sites and facilities including-

- (a) establishing consistent waste handling, waste re-cycling and minimisation, waste disposal and treatment standards and procedures; and
- (b) promoting the development of regional waste disposal, re-cycling and treatment facilities.

Notification of garbage disposal prohibitions

160. Within thirty days of the commencement of this Law, the Director shall notify all owners and agents of Cayman Islands ships to which this Chapter applies of the garbage discharge prohibitions and restrictions provided for in this Chapter.

Offences under Chapter VI

161. (1) If any ship, or the owner or master thereof, fails to comply with any requirement of this Chapter, the owner and the master of the ship is each guilty of an offence and liable on conviction on indictment to a fine of one hundred thousand dollars.

(2) It shall be a defence for a person charged under subsection (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of subsection (2), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

**PART VI - Oil Pollution Preparedness and Response**

Interpretation for the Purpose of Part VI

162. In this Part-

“Convention” means the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990;

“National Coordinator” means the National Coordinator appointed under section 167;

“offshore unit” means any fixed or floating offshore installation or structure engaged in gas or oil exploration, exploitation or production activities, or loading or unloading of oil;

“oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

“oil pollution incident” means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more States, and which requires emergency action or other immediate response;

“operator” means, in relation to an oil handling facility, a person having, for the time being, the management of such facility in the Cayman Islands, and in relation to an offshore installation, includes any person having the management of the installation;

“sea ports and oil handling facilities” means those facilities which present a risk of an oil pollution incident and includes sea ports, oil terminals, pipelines and other oil handling facilities; and

“ship” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air cushion vehicles, submersibles, and floating craft of any type.

Application of Part to Government ships and naval vessels

163. (1) This Part does not apply to-

- (a) any Cayman Islands Government ship on Government non-commercial service; and
- (b) any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service.

(2) Ships referred to in subsection (1)(a) shall, so far as is reasonable and practicable, act in a manner consistent with this Part.

Oil pollution emergency plans

164. (1) Operators of offshore units under the jurisdiction of the Islands shall have oil pollution emergency plans, which are coordinated with the system established in accordance with section 167 and approved in accordance with procedures established by the National Coordinator.

(2) Authorities or the operators in charge of sea ports and oil handling facilities under the jurisdiction of the Islands shall have oil pollution emergency plans or similar arrangements which are coordinated with the system established in accordance with section 167 and approved in accordance with procedures established by the National Coordinator.

Oil pollution reporting procedures

165. (1) Persons having charge of offshore units under the jurisdiction of the Islands shall report to the National Coordinator without delay-

- (a) any event on their offshore unit involving a discharge or probable discharge of oil; and
- (b) any observed event at sea involving a discharge of oil or the presence of oil.

(2) Persons having charge of sea ports and oil handling facilities under the jurisdiction of the Islands shall report without delay any event involving a discharge or probable discharge of oil or the presence of oil to the National Coordinator.

(3) Officers of the Cayman Islands Shipping Registry, the Customs Department, the Immigration Department, police constables and any other officials designated by the Member of Executive Council for the purposes of this subsection, shall report without delay any observed event at sea or at a sea port or oil handling facility involving a discharge of oil or the presence of oil to the National Coordinator.

(4) Reports under this section shall be made so far as possible in accordance with section 34.

Action on receiving  
An oil pollution  
report

166. (1) When the National Coordinator receives a report referred to in section 165 or pollution information provided by other sources, he shall-
- (a) assess the event to determine whether it is an oil pollution incident;
  - (b) assess the nature, extent and possible consequences of the oil pollution incident; and
  - (c) then, without delay, inform all States whose interests are affected or likely to be affected by such oil pollution incident, together with-
    - (i) details of its assessments and any action it has taken, or intends to take, to deal with the incident; and
    - (ii) further information as appropriate,
- until the action taken to respond to the incident has been concluded or until joint action has been decided by such States.
- (2) In the event of a serious oil pollution incident, the National Coordinator shall forthwith inform the Director, and if the Director deems it appropriate, he shall provide the Organization directly or, through the relevant regional organisation or arrangement with the information referred to in subsection (1)(b) and (c).
- (3) When exchanging information and communicating with other States and with the Organization, the National Coordinator shall, insofar as it is practicable, comply with the reporting system contained in the Manual on Oil Pollution, Section II - Contingency Planning, appendix 2, developed by the Marine Environment Protection Committee of the Organization.

National system for  
preparedness and  
response

167. (1) The Member of Executive Council shall establish a national system for responding promptly and effectively to oil pollution incidents and the Governor, acting in his discretion, shall appoint a National Coordinator to perform the functions allocated to him under this Law.
- (2) The National Coordinator shall be-
- (a) the competent national authority with responsibility for oil pollution preparedness and response;
  - (b) the national operational contact point responsible for the receipt and transmission of oil pollution reports as referred to in section 165; and
  - (c) the authority to act on behalf of the Government to request assistance or to decide to render the assistance requested.
- (3) A national contingency plan for preparedness and response which shall include the organisational relationship of the various bodies involved, whether public or private, shall be prepared taking into account the guidelines contained in the Manual on Oil Pollution, Section II - Contingency Planning, developed by the Marine Environment Protection Committee of the Organization.
- (4) The National Coordinator shall, within his capabilities either individually or through bilateral or multilateral cooperation and, as appropriate, in cooperation with the oil and shipping industries, port authorities and other relevant entities, establish-
- (a) a minimum level of pre-positioned oil spill combating equipment, commensurate with the risk involved, and programmes for its use;
  - (b) a programme of exercises for oil pollution response organisations and training of relevant personnel;
  - (c) detailed plans and communication capabilities which are continuously available to an oil pollution incident; and
  - (d) arrangements to coordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilise the necessary resources.
- (5) The National Coordinator shall provide the Director with current information concerning-
- (a) the location, telecommunication data and, where applicable, area of its responsibility;
  - (b) information concerning pollution response equipment and expertise in disciplines related to oil pollution responses and marine salvage which may be made available to other States, upon request; and
  - (c) the national contingency plan,

and the Director shall ensure that such information is provided to the Organization, directly or through the relevant regional organisation or arrangements.

168. (1) The National Coordinator shall cooperate and provide advisory services, technical support and equipment for the purpose of responding to a serious oil pollution incident, upon the request of any State Party to the Convention affected or likely to be affected.

(2) The financing of the costs for such assistance shall be based on the provisions set out in the Annex to the Convention, appearing herein in Schedule 15.

(3) In appropriate circumstances, the Director may seek assistance from the Organization in identifying sources of provisional financing of the costs referred to in subsection (2).

(4) In accordance with applicable international agreements, the National Coordinator shall take necessary measures to facilitate-

(a) the arrival and utilisation in, and departure from, its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and

(b) the expeditious movement into, through, and out of the Islands of personnel, cargoes, materials and equipment referred to in paragraph (a).

169. (1) The National Coordinator shall cooperate directly or, through relevant regional organisations or arrangements in the promotion and exchange of results of research and development programmes relating to the enhancement of the state-of-the-art of oil pollution preparedness and response, including technologies and techniques for surveillance, containment, recovery, dispersion, clean-up and otherwise minimising or mitigating the effects of oil pollution, and for restoration.

(2) The National Coordinator shall, where appropriate, establish directly or, through relevant regional organisations or arrangements, the necessary links between research institutions within the Islands and those of other State Parties to the Convention.

(3) The National Coordinator shall, where appropriate, cooperate directly or through relevant regional organisations or arrangements to promote, as appropriate, the holding on a regular basis of international symposia on relevant subjects, including technological advances in oil pollution combating techniques and equipment.

(4) The National Coordinator shall, where appropriate, cooperate directly or through other competent international organisations, the development of standards for compatible oil pollution combating techniques and equipment.

(5) The activities referred to in this section may be carried out through the Organization, and for such purposes the Director shall liaise with the Organization.

170. (1) The National Coordinator shall, where appropriate, directly or through international bodies, as appropriate, in respect of oil pollution preparedness and response, provide support for those State Parties to the Convention which request technical assistance-

(a) to train personnel;

(b) to ensure the availability of relevant technology, equipment and facilities;

(c) to facilitate other measures and arrangements to prepare for and respond to oil pollution incidents; and

(d) to initiate joint research and development programmes.

(2) The National Coordinator shall, where appropriate, cooperate in the transfer of technology in respect of oil pollution preparedness and response.

(3) The support and transfer of technology referred to in this section may be provided through the Organization, and for such purposes, the Director shall liaise with the Organization.

International  
cooperation in  
pollution response

Research and  
development

Technical cooperation

Bilateral and  
multilateral  
cooperation in  
preparedness  
and response  
Relation to other Parts

171. The National Coordinator may enter into bilateral or multilateral arrangements for oil pollution preparedness and response, and in such circumstances, the Director shall send to the Organization, copies of relevant instruments or documents relating to such arrangements.

172. Nothing in this Part shall be construed as altering the rights or obligations provided under any other Part of this Law.

### **PART VII - Dumping of Wastes at Sea**

Interpretation for the  
purpose of Part VII

173. In this Part-

“Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972, as amended by the 1996 Protocol thereto;

“Director of Environmental Affairs” means the Director of the Department of the Environment;

“dumping” means-

(a) any deliberate disposal into the sea of-

- (i) wastes from vessels, aircraft, platforms or other man-made structures at sea; or
- (ii) vessels, aircraft, platforms or other man-made structures at sea;

(b) any storage of wastes in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea; or

(c) any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal,

but does not include-

(A) the disposal into the sea of wastes incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of wastes or derived from the treatment of such wastes on such vessels, aircraft, platforms or other man-made structures;

(B) the placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to this Part; or

(C) the abandonment at sea of things such as cables, pipelines and marine research devices placed for a purpose other than the mere disposal thereof;

“incineration at sea” means the combustion on board a vessel, platform or other man-made structure at sea of wastes for the purpose of their deliberate disposal by thermal destruction, but does not include the incineration of wastes on board a vessel, platform, or other man-made structure at sea if such wastes were generated during the normal operation of that vessel, platform or other man-made structure at sea;

“permit” means permission granted in advance and in accordance with relevant measures adopted pursuant to section 180 or 185;

“pollution” means the introduction, directly or indirectly, by human activity, of wastes into the sea which results or is likely to result in such deleterious effects as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

“sea” means all marine waters other than the internal waters of States, as well as the seabed and the subsoil thereof but does not include sub seabed repositories accessed only from land;

“vessels and aircraft” means waterborne or airborne craft of any type whatsoever including air-cushioned craft and floating craft, whether self-propelled or not; and

“wastes” means materials and substances of any kind, form or description.

Application of Part VII

174. (1) This Part applies to the sea and the internal waters of the Islands.

(2) The Director of Environmental Affairs shall provide the Director with information on the application of this Part to the internal waters of the Cayman Islands, including the type and nature of the materials dumped in those waters, and the Director shall communicate that information to the Organization.

(3) This Part applies to-

- (a) vessels and aircraft which are registered in the Islands or are otherwise entitled to fly the flag of the Islands;
- (b) vessels and aircraft loading in the territory of the Islands, wastes which are to be dumped or incinerated at sea; and
- (c) vessels, aircraft and platforms or other man-made structures believed to be engaged in dumping or incineration at sea in areas within which the Cayman Islands is entitled to exercise jurisdiction in accordance with international law.

(4) This Part does not apply to the disposal or storage of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of seabed mineral resources.

(5) This Part does not apply to those vessels and aircraft entitled to sovereign immunity under international law.

(6) This Part applies to Cayman Islands Government ships.

Objects of Part VII

175. The objects of this Part are to prevent, reduce and where practicable, eliminate pollution caused by dumping or incineration at sea of wastes.

Administration of Part VII

176. In adMember of Executive Counciling this Part, the Director of Environmental Affairs shall apply a precautionary approach to environmental protection from dumping of wastes whereby appropriate preventative measures are taken when there is reason to believe that wastes introduced into the marine environment are likely to cause harm even where there is no conclusive evidence to prove a causal relation between inputs and their effects.

Obligations of authorised person

177. A person authorised to engage in dumping or incineration at sea under this Part shall-

- (a) bear the cost of meeting the pollution prevention and control requirements for the authorised activities, having due regard to the public interest; and
- (b) not cause, directly or indirectly, damage or likelihood of damage to the environment or transform one type of pollution into another.

Director of Environmental Affairs may take more stringent measures

178. Nothing in this Part shall prevent the Director of Environmental Affairs from adopting more stringent measures than is provided for in this Part with respect to the prevention, reduction and where practicable, elimination of pollution in accordance with this Law.

Prohibition of dumping waste

179. Subject to section 180, the dumping of any wastes is prohibited except in accordance with this Part.

Dumping permits

180. (1) The dumping of wastes listed in Schedule 16 may be permitted subject to the issuing of a permit by the Director of Environmental Affairs.

(2) The Director of Environmental Affairs may issue permits in accordance with this Part in respect of wastes intended for dumping or, as provided for in section 184(1), for incineration at sea-

- (a) loaded in the territory of the Islands; and
- (b) loaded on to a vessel or aircraft registered in the Islands or flying the Cayman Islands flag, when the loading occurs in the territory of a State not a Party to the Convention.

(3) In issuing a permit referred to in subsection (1), the Director of Environmental Affairs shall impose the conditions set out in Schedule 16 and may impose such additional criteria, measures and requirements as he may consider relevant.

(4) The Director of Environmental Affairs shall not issue a dumping permit where an environmentally preferable alternative is available.

Duty to notify Organization

181. Where the dumping of wastes listed in Schedule 16 is permitted, the Director of Environmental Affairs shall inform the Director, and the Director shall notify the Organization.

Prohibition of incineration at sea and of export of wastes

182. (1) Incineration at sea of wastes is prohibited.

(2) The export of wastes to other countries for dumping or incineration at sea is prohibited.

Offences under Part VII

183. (1) Subject to sections 184 and 185, if any ship, or the owner or master thereof or any other person fails to comply with any requirement of this Part, such owner, master or other person is each guilty of an offence and is liable on conviction on indictment to a fine of one hundred thousand dollars.

(2) It shall be a defence for a person charged under subsection (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of subsection (2), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

Exemptions in cases of *force majeure*

184. (1) Sections 180 and 183 shall not apply to circumstances where it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping or incineration at sea appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping or incineration at sea will be less than would otherwise occur.

(2) Such dumping or incineration at sea as is referred to in subsection (1) shall be conducted so as to minimise the likelihood of damage to human or marine life.

(3) The Director of Environmental Affairs shall communicate to the Director details of any dumping or incineration at sea carried out under this section, and the Director shall, as soon as may be practicable, relay the information to the Organization.

Exemptions in cases of other emergencies

185. (1) Sections 180 and 183 shall not apply in cases of emergencies posing an unacceptable threat to human health, safety, or the marine environment and admitting of no other feasible solution.

(2) In cases of emergencies referred to in subsection (1)-

(a) the Director of Environmental Affairs may issue a permit excepting the applications of sections 179 and 182 after consulting the Director and any other country or countries that are likely to be affected; and

(b) the Director shall inform the Organization.

(3) The recommendations of the Organization shall be followed taking into account the time within which action must be taken and avoiding damage to the marine environment.

(4) The Director shall inform the Organization of any action taken under subsection (3).

Record keeping and reporting

186. (1) The Director of Environmental Affairs shall-

(a) keep records of the nature and quantities of all wastes or other matter for which dumping permits have been issued and, where practicable, the quantities actually dumped, and the location, time and method of dumping; and

(b) cause to be monitored, where appropriate, in collaboration with other State Parties to the Convention and competent international organisations, the condition of the sea for the purposes of this Part.

(2) The Director of Environmental Affairs shall communicate to the Director and, where appropriate, to other State Parties to the Convention-

(a) the information referred to in subsection (1)(a) and (b);

(b) the measures taken to implement this Part including a summary of enforcement measures; and

(c) the effectiveness of the measures referred to in paragraph (b) and any problems encountered in their application,

and the Director shall report that information to the Organization.

(3) The information referred to in subsection 2(a) shall be submitted on an annual basis and that referred to in subsection (2)(b) and (c) shall be submitted on a regular basis.

Cooperation regarding enforcement

187. The Director of Environmental Affairs shall cooperate in the development of procedures for the effective application of the Convention in areas beyond the jurisdiction of any State, including procedures for the reporting of vessels and aircraft observed dumping or incinerating at sea in contravention of the Convention.

Liability for damage arising out of dumping at sea

188. The principles, legal and equitable, applicable under the law to liability and compensation for marine pollution damage, and the principles of international law regarding state responsibility for damage to the environment shall apply in cases of liability arising from the dumping or incineration at sea of wastes.

Settlement of disputes

189. (1) In the event of a dispute between the Cayman Islands and another State Party to the Convention, the provisions of Article 16 of the Convention shall apply with regard to the settlement of such dispute.

(2) The texts of Article 16 and Annex 3 of the Convention relating to the arbitral procedure are set out in Schedule 17.

### **PART VIII - Carriage of Hazardous and Noxious Substances**

Interpretation for the purpose of Part VIII

190. (1) In this Part-

“carriage by sea” means the period from the time when the hazardous and noxious substances enter any part of the ship’s equipment, on loading, to the time they cease to be present in any part of the ship’s equipment, on discharge; and if no ship’s equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship’s rail;

“contributing cargo” means any hazardous and noxious substances which are carried by sea as cargo to a port or terminal in the territory of the Islands and discharged in the Islands; cargo in transit which is transferred directly, or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to the port or terminal of final destination shall be considered as contributing cargo only in respect of receipt at the final destination;

“Convention” means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

“damage” means-

- (a) (i) loss of life or personal injury on board or outside the ship carrying the hazardous and noxious substances caused by those substances;
- (ii) loss of or damage to property outside the ship carrying the hazardous and noxious substances caused by those substances;
- (iii) loss or damage by contamination of the environment caused by the hazardous and noxious substances, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; or
- (iv) the costs of preventive measures and further loss or damage caused by preventive measures,

and where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage shall be deemed to be caused by the hazardous and noxious substances except if, and to the extent that, the damage caused by other factors is damage of a type referred to in section 191(3); and

(b) in paragraphs (a)(i) and (ii), “caused by those substances” means caused by the hazardous or noxious nature of the substances.

“hazardous and noxious substances” or HNS means-

- (a) (i) oils carried in bulk listed in Schedule 3;
- (ii) noxious liquid substances carried in bulk referred to in Schedule 6 and those substances and mixtures provisionally categorised in accordance with section 81 as falling in pollution category A, B, C or D as set out in section 79;



- (iii) dangerous liquid substances carried in bulk listed in chapter 17 of the IBC Code and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the Director in accordance with paragraph 1.1.3 of the Code;
- (iv) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the IMDG Code;
- (v) liquefied gases as listed in chapter 19 of the IGC Code and the products for which preliminary suitable conditions for the carriage have been prescribed by the Director in accordance with paragraph 1.1.6 of the Code;
- (vi) liquid substances carried in bulk with a flashpoint not exceeding 60 degrees C (measured by a closed cup test); and
- (vii) solid bulk materials possessing chemical hazards covered by appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended, to the extent that these substances are also subject to the provisions of the IMDG Code when carried in packaged form,

where such substances, materials or articles are carried on board a ship as cargo; and

(b) residues from the previous carriage in bulk of substances referred to in paragraph (a)(i), (ii), (iii), (v), (vi) or (vii);

“HNS Fund” means the International Hazardous and Noxious Substances Fund established under article 13 of the Convention;

“IBC Code” and “IGC Code” have the meanings given in section 74;

“IMDG Code” has the meaning given in section 117;

“incident” means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, so however, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship’s operator, “owner” shall mean such company;

“person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions;

“preventive measures” means any reasonable measures taken by any person after an incident has occurred to prevent or minimise damage;

“receiver” means-

- (a) the person who physically receives contributing cargo discharged in the ports and terminals of the Islands;

Provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of the Islands, then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund; or

- (b) the person in the Islands who in accordance with the law of the Islands is deemed to be the receiver of contributing cargo discharged in the ports and terminals of the Islands;

Provided that the total contributing cargo received according to such law is substantially the same as that which would have been received under paragraph (a);

“State of the ship’s registry” means in relation to a registered ship the State of registration of the ship, and in relation to an unregistered ship the State whose flag the ship is entitled to fly;

“State Party” means a State which is a party to the Convention; and

“terminal” means any site for the storage of hazardous and noxious substances received from waterborne transportation, including any facility situated off-shore and linked by pipeline or otherwise to such site.

(2) In interpreting the definition of “hazardous and noxious substances” any reference in that definition to a particular convention or code shall be taken to be a reference to that

convention or code as amended from time to time (whether before or after the commencement of this Law).

Application of Part VIII

191. (1) This Part applies exclusively to-

- (a) any damage caused in the territory, including the territorial sea, of the Islands;
- (b) damage by contamination of the environment caused in the area adjacent to the territorial sea of the Islands; and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured;
- (c) damage, other than damage by contamination of the environment, caused outside the territory, including the territorial sea, of the Islands, if this damage has been caused by a substance carried on board a Cayman Islands ship, or a ship registered in a State Party, or in the case of an unregistered ship, a ship entitled to fly the flag of a State Party; and
- (d) preventive measures, wherever taken.

(2) This Part applies to claims, other than claims arising out of any contract for the carriage of goods and passengers, for damage arising from the carriage of hazardous and noxious substances by sea.

(3) This Part does not apply to-

- (a) pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended, whether or not compensation is payable in respect of it under that Convention; or
- (b) damage caused by a radioactive material of class 7 either in the IMDG Code, or in appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended.

(4) This Part does not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on government non-commercial service.

(5) Where ships owned by a State Party are used for commercial purposes, the State shall be subject to suit in the Islands if such a ship has caused such damage as is referred to paragraphs (a) or (b) or both paragraphs (a) and (b) of section 191(1), and preventive measures have been taken; and in such a case, the State shall waive all defences based on its status as a sovereign State.

Liability of the owner

192. (1) Except as provided in subsections (2) and (3), the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances in connection with their carriage by sea on board the ship, provided that if an incident consists of a series of occurrences having the same origin the liability shall attach to the owner at the time of the first of such occurrences.

(2) No liability shall attach to the owner if the owner proves that-

- (a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;
- (b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party;
- (c) the damage was wholly caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function; or
- (d) the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either-
  - (i) has caused damage, wholly or partly; or
  - (ii) has led the owner not to obtain insurance in accordance with section 199,

and neither the owner nor its servants or agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.

(3) If the owner proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from liability to such person.

(4) No claim for compensation for damage shall be made against the owner otherwise than in accordance with this Part.

(5) Subject to subsection (6), no claim for compensation for damage under this Part or otherwise may be made against-

- (a) the servants or agents of the owner or the members of the crew;
- (b) the pilot or any other person who, without being a member of the crew, performs services for the ship;
- (c) any charterer (howsoever described, including a demise or bareboat charterer), manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
- (e) any person taking preventive measures; or
- (f) the servants or agents of persons mentioned in paragraphs (c), (d) and (e),

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(6) Nothing in this Part shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage, or the persons indicated in subsection (5).

193. (1) Whenever damage has resulted from an incident involving two or more ships each of which is carrying hazardous and noxious substances, each owner unless exonerated under section 192, shall be liable for the damage.

(2) The owners referred to in subsection (1) shall be jointly and severally liable for all such damage which is not reasonably separable; and shall be entitled to the limits of liability applicable to each of them under section 194.

(3) Nothing in this section shall prejudice any right of recourse of an owner against any other owner.

194. (1) The owner of a ship shall be entitled to limit liability under this Part in respect of any one incident to an aggregate amount calculated as follows-

- (a) ten million special drawing rights for a ship not exceeding 2,000 units of tonnage; and
- (b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in paragraph (a)-
  - (i) for each unit of tonnage from 2,001 to 50,000 units of tonnage, 1,500 special drawing rights; and
  - (ii) for each unit of tonnage in excess of 50,000 units of tonnage, 360 special drawing rights:

Provided, that this aggregate amount shall not in any event exceed 100 million special drawing rights.

(2) The owner shall not be entitled to limit liability under this Part if it is proved that the damage resulted from the personal act or omission of the owner, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(3) For the purposes of this section the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage regulations.

195. (1) The owner shall, for the purpose of benefiting from the limitation provided for in section 194, constitute a fund for the total sum representing the limit of liability established in accordance with section 194-

- (a) with the Court if the incident occurred in any place referred to in section 191(1), whether or not preventive measures were taken;
- (b) if the incident occurred in any other place, with the court or other competent authority of any one of the States Parties in which action is brought under Article 38 of the Convention; or
- (c) if no action is brought, with any court or other competent authority in any one of the States Parties in which an action can be brought under that Article.

Incidents involving two or more ships

Limitation of liability

Limitation fund

(2) The fund shall be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the law of the State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.

(3) Subject to section 198, the fund shall be distributed among the claimants in proportion to the amounts of their established claims.

(4) If before the fund is distributed the owner, or any person providing to the owner insurance or other financial security has as a result of the incident in question, paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends, such owner or person shall, up to the amount that he has paid, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(5) Where the owner or other person referred to in subsection (4), establishes that he may be compelled to pay at a later date in whole or in part any such amount as is referred to in subsection (4), with regard to which the position referred to in that subsection would have subsisted had the amount been paid before the fund was distributed, the Court may order that a sufficient sum shall be previously set aside to enable such owner or person at such later date to enforce the claim against the fund.

(6) (a) The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this section on the same conditions and having the same effect as if it were constituted by the owner; and

(b) a fund under paragraph (a) may be constituted even if, under the provisions of section 194(2), the owner is not entitled to limitation of liability, but its constitution shall, in that case, not prejudice the rights of any claimant against the owner.

(7) Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise damage shall rank equally with other claims against the fund.

196. A payment into Court for the constitution of a fund under section 195 shall be made in dollars and-

(a) for the purpose of converting such an amount from special drawing rights into dollars, one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for-

- (i) the day on which the amount of the limit is determined; or
- (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(b) a certificate given by or on behalf of the Member of Executive Council stating-

- (i) that a particular sum in dollars has been so fixed for the day on which the amount of the limit was determined; or
- (ii) that no sum has been fixed for that day and that a particular sum in dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the amount of the limit was determined,

shall be conclusive evidence of those matters for the purposes of this Part; and

(c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

197. (1) Subject to subsection (2), where the owner, after an incident, has constituted a fund in accordance with section 195 and is entitled to limit liability-

(a) no person having a claim for damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim; and

(b) the court shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.

Limitation fund to be constituted in dollars

Bar to other actions

(2) Subsection (1) shall only apply if the claimant brings a claim before the Court and the fund is actually available in respect of the claim.

Death and injury

198. Claims in respect of death or personal injury shall have priority over other claims save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with section 194(1).

Compulsory insurance of the owner

199. (1) The owner of-

- (a) a Cayman Islands ship operating anywhere; or
- (b) a ship registered in a State Party operating in the waters referred to in section 191(1),

and carrying hazardous and noxious substances shall be required to maintain, to the satisfaction of the Director, insurance or other financial security, such as the guarantee of a bank or similar financial institution, in the amounts fixed by applying the limits of liability prescribed in section 194(1), to cover liability for damage under this Part.

- (2) (a) A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Part shall be issued to each Cayman Islands ship after the Director has determined that the requirements of subsection (1) have been complied with;
- (b) with respect to a ship registered in a State Party the compulsory insurance certificate referred to in paragraph (a) shall be accepted by the Director if it is issued or certified by the appropriate authority of the State of the ship's registry;
- (c) with respect to a ship not registered in a State Party the compulsory insurance certificate referred to in paragraph (a) may be accepted by the Director if it is issued or certified by the appropriate authority of any State Party; and
- (d) the compulsory insurance certificate referred to in paragraph (a) shall be in the form set out in Schedule 18 and shall contain the following particulars-
  - (i) the name of the ship, distinctive number or letters and port of registry;
  - (ii) the name and principal place of business of the owner;
  - (iii) the IMO ship identification number;
  - (iv) the type and duration of security;
  - (v) the name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
  - (vi) the period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.
- (3) (a) The compulsory insurance certificate shall be in English for Cayman Islands ships, and for other ships, shall be in the official language or languages of the issuing State; and
- (b) if the language used is not English, the text shall include an English translation.
- (4) The compulsory insurance certificate shall be carried on board every Cayman Islands ship to which this Part applies and a copy shall be deposited with the Director together with a copy of the receipt for the current premium.
- (5) (a) An insurance or other financial security shall not satisfy the requirements of this section if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under subsection (2), before three months have elapsed from the date on which notice of its termination is given to the Director, unless the compulsory insurance certificate has been issued within the said period;
- (b) paragraph (a) shall apply to any modification which results in the insurance or security no longer satisfying the requirements of this section.
- (6) The Director may at any time request consultation with an issuing or certifying State should he believe that the insurer or guarantor named in the compulsory insurance certificate is not financially capable of meeting the obligations imposed by this Part.
- (7) (a) Any claim for compensation for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage;

- (b) in such case the defendant may, even if the owner is not entitled to limitation of liability, benefit from the limit of liability referred to in subsection (1);
- (c) the defendant may further invoke the defences (other than the bankruptcy or winding up of the owner) which the owner would have been entitled to invoke and may further invoke the defence that the damage resulted from the wilful misconduct of the owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the owner against the defendant; and
- (d) the defendant shall in any event have the right to require the owner to be joined in the proceedings.

(8) Any sums provided by insurance or by other financial security maintained in accordance with subsection (1) shall be available exclusively for the satisfaction of claims under this Part.

(9) No Cayman Islands ship to which this Part applies shall trade unless a certificate has been issued under subsection (2).

(10) No ship to which this Part applies shall enter or leave a port or offshore facility in the Cayman Islands unless there is in force in respect of that ship insurance or other security in the amounts specified in subsection (1).

(11) If insurance or other financial security is not maintained in respect of a ship owned by the Government, the provisions of this section relating thereto shall not be applicable to such ship, but the ship shall carry a compulsory insurance certificate issued by the Director stating that the ship is owned by the Government and that the ship's liability is covered within the limit prescribed in accordance with subsection (1) and such certificate shall follow as closely as possible the form set out in Schedule 18.

200. (1) All matters relating to the HNS Fund shall be governed by the provisions of Chapter III, the relevant provisions of Chapter IV and Article 52 in Chapter VI of the Convention.

(2) Matters relating to claims and actions in respect of this Part and any other provisions of the Convention shall be governed by Chapter IV of the Convention.

(3) The texts of Chapters and Articles of the Convention referred to in this section are set out in Schedule 19.

(4) In Schedule 19-

“Director” means the Director of the HNS Fund.

201. (1) The Governor may make regulations-(a) requiring contributions to be paid to the HNS Fund in accordance with Schedule 19;

(b) for the purpose of giving effect to any instrument relating to the pollution of the sea or other waters (including provisions creating offences) with such modifications, if any, as may be prescribed by the regulations;

(c) with respect to the application of the regulations to the Government;

(d) for detaining any ship in respect of which a contravention of a provision made by or under the regulations is suspected to have occurred and, in relation to such a ship, for applying section 439 of the Merchant Shipping Law (2001 Revision) with such modifications, if any, as are prescribed by the regulations; and

(e) for a certificate issued by or on behalf of the Director and stating that at a particular time a particular substance was, or was not, a hazardous or noxious substance for the purposes of this Part to be conclusive evidence of that matter.

(2) Regulations made under subsection (1) may-

(a) make different provisions for different circumstances;

(b) make provision for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time;

(c) provide for the delegation of functions exercisable by virtue of the regulations; and

HNS Fund and miscellaneous matters relating to the convention

Power to make regulations under Part VIII

2001 Revision

(d) include such incidental, supplemental and transitional provisions as appear to the Governor to be expedient for the purposes of the regulations.

(3) The regulations may give effect to any amendment of a relevant limit which is adopted in accordance with Article 48 of the Convention, the text of which is set out in Schedule 20.

(4) In subsection (3)-

“relevant limit” means any of the limits for the time being specified in section 194(1) and Article 14, paragraph 5 of the Convention.

### **PART IX - Enforcement, Inquiries, Legal Proceedings and Jurisdiction**

Enforcement, etc.  
2001 Revision

202. Parts XVII to XX of the Merchant Shipping Law (2001 Revision) shall apply with any necessary amendments to all matters falling within the scope of this Law insofar as the application of any provision of those Parts is appropriate.

Service of documents  
on shipowners,  
application of fines, etc.

203. (1) Any document required or authorised, by virtue of any statutory provision, to be served on a shipowner for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Law alleged to have been committed by the owner, shall be treated as duly served on that owner if the document is served on the master of the ship or the representative person; and any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Law (whether or not in pursuance of the foregoing provisions of this subsection) shall, for that purpose, have the right to go on board the ship in question.

(2) In subsection (1)-

“representative person” is the person referred to as such in section 6 of the Merchant Shipping Law (2001 Revision).

(3) A person exercising the power of detention in respect of an alleged contravention of this Law shall immediately release the ship if-

(a) no proceedings for the offence in question are instituted within seven days beginning with the day of which the ship is detained;

(b) such proceedings, having been instituted through exercise of the power conferred by subsection (1), within that period, are concluded without the master or owner being convicted;

(c) either-

(i) the sum of one hundred thousand dollars is paid to the Member of Executive Council by way of security; or

(ii) security which, in the opinion of the Member of Executive Council, is satisfactory and is for an amount not less than one hundred thousand dollars is given to the Member of Executive Council, by or on behalf of the master or owner;

(d) where the master or owner is convicted of the offence, any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid, or;

(e) the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea, 1982, and any bond or other financial security ordered by such a court or tribunal is posted.

(4) The Member of Executive Council shall repay any sum paid in pursuance of subsection (3)(c) or release any security so given-

(a) if no proceedings for the offence in question are instituted within seven days beginning with the day on which the sum is paid; or

(b) if such proceedings, having been instituted within that period, are concluded without the master or owner being convicted.

(5) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (3)(c) and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied as follows-

- (a) first in payment of any costs or expenses ordered by the Court to be paid by the master or owner; and
- (b) next in payment of any fine imposed by the Court,

and any balance shall be repaid to the person paying the sum, or giving the security.

(6) Where a fine imposed by a Court in proceedings against the owner or master of a ship for an offence under this Law is not paid or any costs or expenses ordered to be paid by him are not paid at the time ordered by the Court, the Court shall, in addition to any other powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or arrestment and sale of the ship, her tackle, furniture and apparel.

(7) Where a person is convicted of an offence under this Law, and the Court imposes a fine in respect of the offence, then if it appears to the Court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is attributable to the offence, the Court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

(8) This section applies without prejudice to the application of section 202.

204. (1) No proceedings for an offence of contravening any provision of this Law by a ship not being a Cayman Islands ship, which relates to a discharge in the internal waters, territorial seas or exclusive economic zone of another State shall be instituted unless-

- (a) that State, the flag State or a State damaged or threatened by the discharge requests that proceedings be taken; or
- (b) the discharge has caused or is likely to cause pollution in national waters, or in Cayman Islands protected waters.

(2) Where proceedings for an offence of contravening any provision of this Law by a ship not being a Cayman Islands ship which relates to a discharge in the internal waters, territorial seas or exclusive economic zone of another State have been instituted but not concluded, and that State requests suspension of the proceedings-

- (a) proceedings shall be suspended; and
- (b) the Director shall transmit all the evidence and court records and documents relating to the case, together with any sum paid or security given under section 203(3)(c), to that State.

(3) It shall be a defence to a person charged with contravening any provision of this Law to show-

- (a) that the ship is not a Cayman Islands ship;
- (b) the discharge took place outside the Islands, its national waters or Cayman Islands protected waters; and
- (c) the ship was in a port in the Islands at the time of institution of proceedings by reason only of stress of weather or other reason beyond the control of the master or owner or charterer.

205. (1) This section relates to an alleged offence or contravention of any provision of this Law by a ship which is not a Cayman Islands ship, in relation to a discharge outside the Islands or its territorial seas.

(2) (a) Any proceedings for such an offence shall be stayed if the Court is satisfied that the flag State has instituted proceedings corresponding to the proceedings in the Islands in respect of the discharge, within six months of the institution of proceedings in the Islands.

- (b) Paragraph (a) does not apply-
  - (i) where the discharge resulted in major damage to the Islands; or
  - (ii) the Director certified that the flag State has repeatedly disregarded its obligation to enforce effectively the requirements of any Convention referred to in this Law in respect of its ship.

Restriction on jurisdiction over offences outside Cayman Islands limits

Suspension of proceedings at flag State request



- (3) Where proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings shall be terminated.
- (4) Where the costs of the Director incurred in respect of proceedings suspended under subsection (2) have been paid, any money paid or security given under section 203(3)(c) shall be released.

**SCHEDULE 1**

**LIST OF SUBSTANCES ESTABLISHED BY THE MARINE ENVIRONMENT  
PROTECTION COMMITTEE OF THE ORGANIZATION IN ACCORDANCE WITH  
PARAGRAPH 2(a) OF ARTICLE 1 OF THE PROTOCOL OF 1973 TO THE  
INTERVENTION CONVENTION**

**1. Oil (when carried in bulk)**

Asphalt Solutions

Blending Stocks  
Roofers Flux  
Straight Run Residue

Oil

Clarified  
Mixtures containing Crude Oil  
Road Oil  
Aromatic Oil (excluding vegetable oil)  
Blending Stocks  
Mineral Oil  
Penetrating Oil  
Spindle Oil  
Turbine Oil

Distillates

Straight Run  
Flashed Feed Stocks

Gas Oil

Cracked

Gasoline Blending Stocks

Alkylates – fuel  
Reformats  
Polymer – fuel

Gasolines

Casinghead (natural)  
Automotive  
Aviation  
Straight Run

Jet Fuels

JP-1 (Kerosene)  
JP-3  
JP-4  
JP-5 (Kerosene, heavy)  
Turbo Fuel  
Mineral Spirit

Naphtha

Solvent  
Petroleum  
Heartcut Distillate Oil

## **2. Noxious Substances**

Acetic anhydride  
Acetone  
Acetone cyanohydrin  
Acrolein  
Acrylonitrile  
Aldrin  
Allyl isothiocyanate  
Aluminium phosphide  
Ammonia (28% aqueous)  
Ammonium phosphate  
Amyl mercaptan  
Aniline  
Aniline hydrochloride  
Antimony compounds  
Arsenic compounds  
Atrazine  
Azinphos methyl (Guthion)  
Barium azide  
Barium cyanide  
Barium oxide  
Benzene  
Benzenehexachloride isomers (Lindane)  
Benzidine  
Beryllium powder  
Bromine  
Bromobenzyl cyanide  
n-Butyl acrylate  
Butyric acid  
Cacodylic acid  
Cadmium compounds  
Carbaryl (Sevin)  
Carbon disulphide  
Carbontetrachloride  
Chlorodane  
Chloroacetone  
Chloroacetophenone  
Chlorodinitrobenzene  
Chloroform  
Chlorohydrins (crude)  
Chloropicrin  
Chromic acid (Chromium trioxide)  
Cocculus (solid)  
Copper compounds  
Cresols  
Cupriethylene diamine  
Cyanide compounds  
Cyanogen bromide  
Cyanogen chloride  
DDT  
Dichloroanilines  
Dichlorobenzenes  
Dieldrin  
Dimethoate (Cygon)  
Dimethyl amine (40% aqueous)  
Dinitroanilines

4,6-Dinitroorthocresol  
Dinitrophenols  
Endosulphan (Thiodan)  
Endrin  
Epichlorohydrin  
Ethyl bromoacetate  
Ethylene chlorohydrin (2-Chloro-ethanol)  
Ethylene dichloride  
Ethyl parathion  
Fentin acetate (dry)  
Fluosilicic acid  
Heptachlor  
Hexachlorobenzene  
Hexaethyl tetraphosphate  
Hydrocyanic acid  
Hydrofluoric acid (40% aqueous)  
Isoprene  
Lead compounds  
Lindane (Gammexane, BHC)  
Malathion  
Mercuric compounds  
Methyl alcohol  
Methylene chloride  
Molasses  
Naphthalene (molten)  
Naphthylthiourea  
Nitric acid (90%)  
Oleum  
Parathion  
Paraquat  
Phenol  
Phosphoric acid  
Phosphorus (elemental)  
Polyhalogenated biphenyls  
Sodium pentachlorophenate (solution)  
Styrene monomer  
Toluene  
Toluene diisocyanate  
Toxaphene  
Tritolyl phosphate (Tricresyl phosphate)  
2, 4, 5-T

**3. Liquefied Gases (when carried in bulk)**

Acetaldehyde  
Anhydrous Ammonia  
Butadiene  
Butane  
Butane/Propane Mixtures  
Butylenes  
Chlorine  
Dimethylamine  
Ethyl Chloride  
Ethane  
Ethylene  
Ethylene Oxide  
Methane (LNG)  
Methyl Acetylene Propadiene mixture

Methyl Bromide  
Methyl Chloride  
Propane  
Propylene  
Vinyl Chloride Monomer  
Anhydrous Hydrogen Chloride  
Anhydrous Hydrogen Fluoride  
Sulphur Dioxide

#### **4. Radioactive Substances**

Radioactive substances, including, but not limited to, elements and compounds the isotopes of which are subject to the requirements of Section 835 of the Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition, published by the International Atomic Energy Agency, and which may be found to be stored or transported as substances and/or materials in Type A packages, Type B packages, as fissile materials or materials transported under special arrangements, such as

$^{60}_{\text{Co}}$ ,  $^{137}_{\text{Cs}}$ ,  $^{226}_{\text{Ra}}$ ,  $^{239}_{\text{Pu}}$ ,  $^{235}_{\text{U}}$ .

## **SCHEDULE 2**

### **CONCILIATION AND ARBITRATION UNDER THE INTERVENTION CONVENTION**

#### **ANNEX TO THE INTERVENTION CONVENTION**

##### **Chapter 1 – Conciliation**

###### **Article 1**

Provided the Parties concerned do not decide otherwise, the procedure for conciliation shall be in accordance with the rules set out in this Chapter.

###### **Article 2**

1. A Conciliation Commission shall be established upon the request of one Party addressed to another in application of Article VIII of the Convention.
2. The request for conciliation submitted by a Party shall consist of a statement of the case together with any supporting documents.
3. If a procedure has been initiated between two Parties, any other Party the nationals or property of which have been affected by the same measures, or which is a coastal State having taken similar measures, may join in the conciliation procedure by giving written notice to the Parties which have originally initiated the procedure unless either of the latter Parties object to such joinder.

###### **Article 3**

1. The Conciliation Commission shall be composed of three members: one nominated by the coastal State which took the measures, one nominated by the State the nationals or property of which have been affected by those measures and a third, who shall preside over the Commission and shall be nominated by agreement between the two original members.
2. The Conciliators shall be selected from a list previously drawn up in accordance with the procedure set out in Article 4 below.
3. If within a period of 60 days from the date of receipt of the request for conciliation, the Party to which such request is made has not given notice to the other Party to the controversy of the nomination of the Conciliator for whose selection it is responsible, or if, within a period of 30 days from the date of nomination of the second of the members of the Commission to be designated by the Parties, the first two Conciliators have not been able to designate by common agreement the Chairmen of the Commission, the Secretary-General of the Organization shall upon request of either Party and within a period of 30 days, proceed to the required nomination. The members of the Commission thus nominated shall be selected from the list prescribed in the preceding paragraph.
4. In no case shall the chairman of the Commission be or have been a national of one of the original Parties to the procedure, whatever the method of his nomination.

###### **Article 4**

1. The list prescribed in Article 3 above shall consist of qualified persons designated by the Parties and shall be kept up to date by the Organization. Each Party may designate for inclusion on the list four persons, who shall not necessarily be its nationals. The nominations shall be for periods of six years each and shall be renewable.
2. In the case of the decease or resignation of a person whose name appears on the list, the Party which nominated such person shall be permitted to nominate a replacement for the remainder of the term of office.

**Article 5**

1. Provided the Parties do not agree otherwise, the Conciliation Commission shall establish its own procedures, which shall in all cases permit a fair hearing. As regards examination, the Commission, unless it unanimously decides otherwise, shall conform with the provisions of Chapter III of the Hague Convention for the Peaceful Settlement of International Disputes of 18 October 1907.

2. The Parties shall be represented before the Conciliation Commission by agents whose duty shall be to act as intermediaries between the Parties and the Commission. Each of the Parties may seek also the assistance of advisers and experts nominated by it for this purpose and may request the hearing of all persons whose evidence the Party considers useful.

3. The Commission shall have the right to request explanations from agents, advisers and experts of the Parties as well as from any persons whom, with the consent of their governments, it may deem useful to call.

**Article 6**

Provided the Parties do not agree otherwise, decisions of the Conciliation Commission shall be taken by a majority vote and the Commission shall not pronounce on the substance of the controversy unless all its members are present.

**Article 7**

The Parties shall facilitate the work of the Conciliation Commission and in particular, in accordance with their legislation, and using all means at their disposal:

- (a) provide the Commission with the necessary documents and information;
- (b) enable the Commission to enter their territory, to hear witness or experts, and to visit the scene

**Article 8**

The task of the Conciliation Commission will be to clarify the matters under dispute, to assemble for this purpose all relevant information by means of examination or other means, and to endeavour to reconcile the Parties. After examining the case, the Commission shall communicate to the Parties a recommendation which appears to the Commission to be appropriate to the matter and shall fix a period of not more than 90 days within which the Parties are called upon to state whether or not they accept the recommendation.

**Article 9**

The recommendation shall be accompanied by a statement of reasons. If the recommendation does not represent in whole or in part the unanimous opinion of the Commission, any Conciliator shall be entitled to deliver a separate opinion.

**Article 10**

A conciliation shall be deemed unsuccessful if, 90 days after the Parties have been notified of the recommendation, either Party shall not have notified the other Party of its acceptance of the recommendation. Conciliation shall likewise be deemed unsuccessful if the Commission shall not have been established within the period prescribed in the third paragraph of Article 3 above, or provided the Parties have not agreed otherwise, if the Commission shall not have issued its recommendation within one year from the date on which the Chairman of the Commission was nominated.

**Article 11**

1. Each member of the Commission shall receive remuneration for his work, such remuneration to be fixed by agreement between the parties which shall each contribute an equal proportion.

2. Contributions for miscellaneous expenditure incurred by the work of the Commission shall be apportioned in the same manner.

**Article 12**

The parties to the controversy may at any time during the conciliation procedure decide in agreement to have recourse to a different procedure for settlement of disputes.

## **Chapter II -Arbitration**

### **Article 13**

1. Arbitration procedure, unless the Parties decide otherwise, shall be in accordance with the rules set out in this Chapter.
2. Where conciliation is unsuccessful, a request for arbitration may only be made within a period of 180 days following the failure of conciliation.

### **Article 14**

The Arbitration Tribunal shall consist of three members: one Arbitrator nominated by the coastal State which took the measures, one Arbitrator nominated by the State the nationals or property of which have been affected by those measures, and another Arbitrator who shall be nominated by agreement between the two first-named, and shall act as its Chairman.

### **Article 15**

1. If, at the end of a period of 60 days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of 60 days proceed to such nomination, selecting from a list of qualified persons previously drawn up in accordance with the provisions of Article 4 above. This list shall be separate from the list of experts prescribed in Article IV of the Convention and from the list of Conciliators prescribed in Article 4 of the present Annex: the name of the same person may, however, appear both on the list of Arbitrators. A person who has acted as Conciliator in a dispute may not, however, be chosen to act as Arbitrator in the same matter.
2. If, within a period of 60 days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organization who shall nominate the Chairman of the Tribunal within a period of 60 days, selecting him from the list prescribed in paragraph 1 of the present Article.
3. The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.
4. The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party or Parties.
5. If the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of 60 days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In the case of decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article 14 above, or in the absence of agreement between the members of the Tribunal within a period of 60 days of the decease or default, according to the provisions of the present Article.

### **Article 16**

If a procedure has been initiated between two Parties, any other Party, the nationals or property of which have been affected by the same measures or which is a coastal State having taken similar measures, may join in the arbitration procedure by giving written notice to the Parties which have originally initiated the procedure unless either of the latter Parties object to such joinder.



**Article 17**

Any Arbitration Tribunal established under the provisions of the present Annex shall decide its own rules of procedure.

**Article 18**

1. Decisions of the Tribunal both as to its procedure and its place of meeting and as to any controversy laid before it, shall be taken by majority vote of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the Chairman shall cast the deciding vote.

2. The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal:

(a) provide the Tribunal with the necessary documents and information;

(b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

3. Absence or default of one Party shall not constitute an impediment to the procedure.

**Article 19**

1. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal. The Parties shall immediately comply with the award.

2. Any controversy which may arise between the Parties as regards interpretation and execution of the award may be submitted by either Party for judgement to the Tribunal which made the award, or, if it is not available, to another Tribunal constituted for this purpose in the same manner as the original Tribunal.

**SCHEDULE 3**

**SUBSTANCES LISTED IN APPENDIX I TO ANNEX I OF MARPOL**

**LIST OF OILS**

(This list of oils shall not necessarily be considered as comprehensive.)

**Asphalt solutions**

Blending stocks  
Roofers flux  
Straight run residue

**Oils**

Clarified  
Crude Oil  
Mixtures containing crude oil  
Diesel oil  
Fuel oil no. 4  
Fuel oil no. 5  
Fuel oil no. 6  
Residual fuel oil  
Road oil  
Transformer oil  
Aromatic oil (excluding vegetable oil)  
Lubricating oils and blending stocks  
Mineral oil  
Motor Oil  
Penetrating oil  
Spindle oil  
Turbine oil

**Distillates**

Straight run  
Flashed feed stocks

**Gas Oil**

Cracked

**Gasoline blending stocks**

Alkylates – fuel  
Reformats  
Polymer – fuel

**Gasolines**

Casinghead (natural)  
Automotive  
Aviation  
Straight run  
Fuel oil no. 1 (kerosene)  
Fuel oil no. 1-D  
Fuel oil no. 2  
Fuel oil no. 2-D

**Jet fuels**

JP-1 (kerosene)  
JP -3  
JP-4  
JP-5 ((Kerosene, heavy)  
Turbo fuel  
Kerosene  
Mineral spirit

**Naphtha**

Solvent  
Petroleum  
Heartcut distillate oil

**SCHEDULE 4**

**FORM OF IOPP CERTIFICATE AND SUPPLEMENTS**

**International Oil Pollution Prevention Certificate**

(Note: This certificate shall be supplemented by a Record of Construction and Equipment)

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as “the Convention”) under the authority of the government of:

.....  
*(full designation of the country)*

by .....  
*(full designation of the competent person or organisation authorised under the provisions of the Convention)*

Name of Ship	Distinctive number or letters	Port of Registry	Gross tonnage	Deadweight of ship (metric tons) †	IMO number‡

†  
*( For oil tankers.)*

‡  
*( In accordance with resolution A.600(15), IMO Ship Identification Number Scheme, this information may be included voluntarily.)*

Type of ship:

Oil tanker\*

Ship other than an oil tanker with cargo tanks coming under regulation 2 (2) of Annex 1 of the Convention\*

Ship other than any of the above\*

*(\*delete as appropriate)*

**THIS IS TO CERTIFY:**

1. That the ship has been surveyed in accordance with regulation 4 of Annex 1 of the Convention; and
2. That the survey shows that the structure, equipment, systems, fittings, arrangement and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex 1 of the Convention.

This certificate is valid until .....

subject to surveys in accordance with regulation 4 of Annex 1 of the Convention.

Issued at .....

*(Place of issue of certificate)*

.....  
*(Date of issue)*

.....  
*(Signature of duly authorised official issuing the certificate)*

*(Seal or stamp of the authority, as appropriate)*

**ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS**

THIS IS TO CERTIFY that a survey required by regulation 4 of Annex 1 of the Convention the ship was found to comply with the relevant provisions of the Convention:

Annual survey: Signed.....  
(Signature of duly authorised officer)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

Annual \*/Intermediate survey\* : Signed.....  
(Signature of duly authorised officer)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

Annual \*/Intermediate survey\* : Signed.....  
(Signature of duly authorised officer)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

Annual survey: Signed.....  
(Signature of duly authorised officer)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

(\* delete as appropriate)

**ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE WHERE REGULATION 8(5) OR 8(6) APPLIES**

This Certificate shall, in accordance with regulation 8(5) or 8(6)\* of Annex I of the Convention, be accepted as valid until .....

Signed .....  
(Signature of authorised official)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

(\* delete as appropriate)

**ENDORSEMENT FOR ADVANCEMENT OF ANNIVERSARY DATE WHERE REGULATION 8(8) APPLIES**

In accordance with regulation 8(8) of Annex I of the Convention, the anniversary date is .....

Signed .....  
(Signature of authorised official)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

In accordance with regulation 8(8) of Annex I of the Convention, the anniversary date is .....

Signed .....  
(Signature of authorised official)

Place.....

Date .....

(Seal or stamp of the authority, as appropriate)

**ANNUAL/INTERMEDIATE SURVEY IN ACCORDANCE WITH REGULATION 8(8)(C)**

THIS IS TO CERTIFY that, at an annual/intermediate\* survey in accordance with regulation 8(8)(c) of Annex I of the Convention, the ship was found to comply with the relevant provisions of the Convention:

Signed .....  
(Signature of authorised official)

Place .....

Date .....

(Seal or stamp of the authority, as appropriate)

(\* delete as appropriate)

**ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE REGULATION 8(3) APPLIES**

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 8(3) of Annex I of the Convention, be accepted as valid until.....

Signed .....  
(Signature of authorised official)

Place .....

Date .....

(Seal or stamp of the authority, as appropriate)

**ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN COMPLETED AND REGULATION 8(4) APPLIES**

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 8(4) of Annex I of the Convention, be accepted as valid until.....

Signed .....  
(Signature of authorised official)

Place .....

Date .....

(Seal or stamp of the authority, as appropriate)

**Supplement to the International Oil Pollution Prevention Certificate (IOPP Certificate)**

FORM A  
(Revised 1991)

**RECORD OF CONSTRUCTION AND EQUIPMENT FOR SHIPS OTHER THAN OIL TANKERS**

In respect of the provisions of Annex 1 of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as “the Convention”).

*Notes:*

1. This form is to be used for the third type of ships as categorised in the IOPP Certificate, i.e. “ships other than any of the above.” For oil tankers and ships other than oil tankers with cargo tanks coming under regulation 2 (2) of Annex 1 of the Convention, Form B shall be used.
2. This Record shall be permanently attached to the IOPP Certificate. The IOPP Certificate shall be available on board the ship at all times.
3. If the language of the original Record is neither English nor French, the text shall include a translation into one of these languages.
4. Entries in boxes shall be made by inserting either a cross (x) for the answers “yes” and “applicable” or a dash (-) for the answers “no” and “not applicable” as appropriate.
5. Regulations mentioned in this Record refer to regulations of Annex 1 of the Convention and resolutions refer to those adopted by the International Maritime Organization.

**1 Particulars of Ship**

- 1.1 Name of ship .....
- 1.2 Distinctive number or letters .....
- 1.3 Port of registry .....
- 1.4 Gross tonnage.....
- 1.5 Date of build:
  - 1.5.1 Date of building contract .....
  - 1.5.2 Date on which keel was laid or ship was at a similar stage of construction .....
  - 1.5.3 Date of delivery.....
- 1.6 Major conversion (if applicable):
  - 1.6.1 Date of conversion contract .....
  - 1.6.2 Date on which conversion was commenced .....
  - 1.6.3 Date of completion of conversion.....
- 1.7 Status of ship
  - 1.7.1 New ship in accordance with regulation 1 (6)
  - 1.7.2 Existing ship in accordance with regulation 1 (7)
  - 1.7.3 The ship has been accepted by the Administration as an “existing ship” under regulation 1 (7) due to unforeseen delay in delivery

**2 Equipment for the control of oil discharge from machinery space bilges and oil fuel tanks**

(regulations 10 and 16)

- 2.1 Carriage of ballast water in oil fuel tanks:
  - 2.1.1 The ship may under normal conditions carry ballast water in oil fuel tanks
- 2.2 Type of oil filtering equipment fitted:
  - 2.2.1 Oil filtering (15 ppm) equipment (regulation 16 (4))
  - 2.2.2 Oil filtering (15 ppm) equipment with alarm and automatic stopping device (regulation 16 (5))
- 2.3 The ship is allowed to operate with the existing equipment until 6 July, 1998 (regulation 16 (6)) and fitted with:
  - 2.3.1 Oily-water separating (100 ppm) equipment
  - 2.3.2 Oil filtering (15 ppm) equipment without alarm
  - 2.3.3 Oil filtering (15 ppm) equipment with alarm and manual stopping device
- 2.4 Approval standards<sup>1</sup>

<sup>1</sup>  
 ( Refer to the Recommendation on international performance and test specifications of oily-water separating equipment and oil content meters adopted by the Organization on 14 November 1977 by resolution A.393(X), which superseded resolution A.233 (VII); see IMO sales publication IMO-608E. Further reference is made to the Guidelines and specifications for pollution prevention equipment for machinery space bilges adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.60(33), which, effective on 6 July, 1993, superseded resolutions A.393(X) and A.444(XI); see IMO sales publication IMO-646E.)

- 2.4.1 The separating/filtering equipment:
  - 1 has been approved in accordance with resolution A.393(X)
  - 2 has been approved in accordance with resolution A.233 (VII)
  - 3 has been approved in accordance with national standards not based upon resolution A.393(X) or A.233 (VII)
  - 4 has not been approved
- 2.4.2 The process unit has been approved in accordance with resolution A.444(XI)
- 2.4.3 The oil content meter has been approved in accordance with resolution A.393(X)
- 2.5 Maximum throughput of the system is .....m3/h
- 2.6 Waiver of regulation 16:
  - 2.6.1 The requirements of regulation 16(1) or (2) are waived in respect of the ship in accordance with regulation 16 (3) (a). The ship is engaged exclusively on:
    - 1 voyages within special area(s):.....  
 .....  
 .....
    - 2 voyages within 12 miles of the nearest land outside special area(s) restricted to:  
 .....  
 .....  
 .....
  - 2.6.2 The ship is fitted with holding tank(s) having a volume of m3 for the total retention on board of all oily bilge water



**3 Means for retention and disposal of oil residues (sludge)**

(regulation 17)

3.1 The ship is provided with oil residue (sludge) tanks as follows:

Tank Identification	Tank Location		Volume (m <sup>3</sup> )
	Frames (from) – (to)	Lateral position	
Total volume: .....			m <sup>3</sup>

3.2 Means for the disposal of residues in addition to the provisions of sludge tanks:

3.2.1 Incinerator for oil residues, capacity.....l/h

3.2.2 Auxiliary boiler suitable for burning oil residues

3.2.3 Tank for mixing oil residues with fuel oil, capacity .....m<sup>3</sup>

3.2.4 Other acceptable means:

.....

**4 Standard discharge connection**

(regulation 19)

4.1 The ship is provided with a pipeline for the discharge of residues from machinery bilges to reception facilities, fitted with a standard discharge connection in accordance with regulation 19

**5 Shipboard oil pollution emergency plan**

(regulation 26)

5.1 The ship is provided with a shipboard oil pollution emergency plan in compliance with regulation 26

**6 Exemption**

6.1 Exemptions have been granted by the Administration from the requirements of chapter II of Annex I of the Convention in accordance with regulation 2 (4) (a) on those items listed under paragraph(s) .....

.....of this Record. 128

**7 Equivalentents**

(regulation 3)

7.1 Equivalentents have been approved by the Administration for certain requirements of Annex I on those items listed under paragraph(s) .....

.....of this Record.

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at .....

(Place of issue of the Record)

.....

(Signature of duly authorised officer issuing the Record)

(Seal or stamp of the issuing authority, as appropriate)

**Supplement to International Oil Pollution Prevention Certificate  
(IOPP Certificate)**

FORM B  
(Revised 1991)

**RECORD OF CONSTRUCTION AND EQUIPMENT FOR OIL TANKERS**

in respect of the provisions of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as “the Convention”).

*Notes:*

1. This form is to be used for the first two types of ships as categorised in the IOPP Certificate, i.e. “oil tankers” and ships other than oil tankers with cargo tanks coming under regulation 2 (2) of Annex 1 of the Convention”. For the third type of ships as categorised in the IOPP Certificate, Form A shall be used.
2. This Record shall be permanently attached to the IOPP Certificate. The IOPP Certificate shall be available on board the ship at all times.
3. If the language of the original Record is neither English nor French, the text shall include a translation into one of these languages.
4. Entries in boxes shall be made by inserting either a cross (x) for the answers “yes” and “applicable” or a dash (-) for the answers “no” and “not applicable” as appropriate.
5. Regulations mentioned in this Record refer to regulations of Annex 1 of the Convention and resolutions refer to those adopted by the International Maritime Organization.

**1 Particulars of Ship**

- 1.1 Name of ship .....
- 1.2 Distinctive number or letters .....
- 1.3 Port of registry .....
- 1.4 Gross tonnage.....
- 1.5 Carrying capacity of ship .....(m3)
- 1.6 Deadweight of ship ..... (metric tons) regulations 1(22)
- 1.7 Length of ship .....(m) (regulation 1(18))
- 1.8 Date of build:
  - 1.8.1 Date of building contract .....
  - 1.8.2 Date on which keel was laid or ship was at a similar stage of construction  
.....
  - 1.8.3 Date of delivery .....
- 1.9 Major conversion (if applicable):
  - 1.9.1 Date of conversion contract .....
  - 1.9.2 Date on which conversion was commenced .....
  - 1.9.3 Date of completion of conversion .....
- 1.10 Status of ship:
  - 1.10.1 New ship in accordance with regulation 1 (6)
  - 1.10.2 Existing ship in accordance with regulation 1 (7)
  - 1.10.3 New oil tanker in accordance with regulation 1(26)
  - 1.10.4 Existing oil tanker in accordance with regulation 1(27)
  - 1.10.5 The ship has been accepted by the Administration as an “existing ship” under regulation 1 (7) due to unforeseen delay in delivery

- 1.10.6 The ship has been accepted by the Administration as an “existing oil tanker” under regulation 1(27) due to unforeseen delay in delivery
- 1.10.7 The ship is not required to comply with the provisions of regulation 24 due to unforeseen delay in delivery
- 1.11 Type of ship:
- 1.11.1 Crude oil tanker
- 1.11.2 Product carrier
- 1.11.3 Crude oil/product carrier
- 1.11.4 Combination carrier
- 1.11.5 Ship, other than an oil tanker, with cargo tanks coming under regulation 2(2) of Annex 1 of the Convention
- 1.11.6 Oil tanker dedicated to the carriage of products referred to in regulation 15 (7)
- 1.11.7 The ship, being designated as a “crude oil tanker” operating with COW, is also designated as a “product carrier” operating with CBT, for which a separate IOPP Certificate has also been issued
- 1.11.8 The ship, being designated as a “product carrier” operating with CBT, is also designated as a “crude oil tanker” operating with COW, for which a separate IOPP Certificate has also been issued
- 1.11.9 Chemical tanker carrying oil

**2 Equipment for the control of oil discharge from machinery space bilges and oil fuel tanks**

(regulations 10 and 16)

- 2.1 Carriage of ballast water in oil fuel tanks:
- 2.1.1 The ship may under normal conditions carry ballast water in oil fuel tanks
- 2.2 Type of oil filtering equipment fitted:
- 2.2.1 Oil filtering (15 ppm) equipment (regulation 16 (4))
- 2.2.2 Oil filtering (15 ppm) equipment with alarm and automatic
- 2.3 The ship is allowed to operate with the existing equipment until 6 July, 1998 (regulation 16 (6)) and fitted with:
- 2.3.1 Oily-water separating (100 ppm) equipment
- 2.3.2 Oil filtering (15 ppm) equipment without alarm
- 2.3.3 Oil filtering (15 ppm) equipment with alarm and manual stopping device
- 2.4 Approval standards<sup>1</sup>

<sup>1</sup>  
( Refer to the Recommendation on international performance and test specifications of oily-water separating equipment and oil content meters adopted by the Organization on 14 November 1977 by resolution A.393(X), which superseded resolution A.233 (VII); see IMO sales publication IMO-608E. Further reference is made to the Guidelines and specifications for pollution prevention equipment for machinery space bilges adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.60(33), which, effective on 6 July, 1993, superseded resolutions A.393(X) and A.444(XI); see IMO sales publication IMO-646E.)

- 2.4.1 The separating/filtering equipment:
- 1 has been approved in accordance with resolution A.393(X)
  - 2 has been approved in accordance with resolution A.233 (VII)
  - 3 has been approved in accordance with national standards not based upon resolution A.393(X) or A.233 (VII)
  - 4 has not been approved
- 2.4.2 The process unit has been approved in accordance with resolution A.444(XI)
- 2.4.3 The oil content meter has been approved in accordance with resolution A.393(X)
- 2.5 Maximum throughput of the system is .....m<sup>3</sup>/h
- 2.6 Waiver of regulation 16:
- 2.6.1 The requirements of regulation 16(1) or (2) are waived in respect of the ship in accordance with regulation 16(3) (a). The ship is engaged exclusively on:
- 1 voyages within special area(s):.....
  - 2 voyages within 12 miles of the nearest land outside special area(s) restricted to:.....
- 2.6.2 The ship is fitted with holding tank(s) having a volume of m<sup>3</sup> for the total retention on board of all oily bilge water
- 2.6.3 In lieu of the holding tank the ship is provided with arrangements to transfer bilge water to the slop tank

**3 Means for retention and disposal of oil residues (sludge)**

(regulation 17)

3.1 The ship is provided with oil residue (sludge) tanks as follows:

Tank Identification	Tank Location		Volume (m <sup>3</sup> )
	Frames (from) – (to)	Lateral position	
Total volume: .....m <sup>3</sup>			

- 3.2 Means for the disposal of residues in addition to the provision of sludge tanks:
- 3.2.1 Incinerator for oil residues, capacity .....1/h
  - 3.2.2 Auxiliary boiler suitable for burning oil residues
  - 3.2.3 Tank for mixing oil residues with fuel oil, capacity .....m<sup>3</sup>
  - 3.2.4 Other acceptable means:

**4 Standard discharge connection**

(regulation 19)

- 4.1 The ship is provided with a pipeline for the discharge of residues from machinery bilges to reception facilities, fitted with a standard discharge connection in accordance with regulation 19

**5. Construction**

(regulations 13, 24 and 25)

- 5.1 In accordance with the requirements of regulation 13, the ship is:
  - 5.1.1 Required to be provided with SBT, PL and COW
  - 5.1.2 Required to be provided with SBT and PL
  - 5.1.3 Required to be provided with SBT
  - 5.1.4 Required to be provided with SBT or COW
  - 5.1.5 Required to be provided with SBT or CBT
  - 5.1.6 Not required to comply with the requirements of regulation 13
- 5.2 Segregated ballast tanks (SBT):
  - 5.2.1 The ship is provided with SBT in compliance with regulation 13
  - 5.2.2 The ship is provided with SBT, in compliance with regulation 13, which are arranged in protective locations (PL) in compliance with regulation 13E

5.2.3 SBT are distributed as follows:

Tank	Volume (m <sup>3</sup> )	Tank	Volume (m <sup>3</sup> )
Total volume: .....			m <sup>3</sup>

- 5.3 Dedicated clean ballast tanks (CBT):
  - 5.3.1 The ship is provided with CBT in compliance with regulation 13A, and may operate as a product carrier

5.3.2 CBT are distributed as follows:

Tank	Volume (m <sup>3</sup> )	Tank	Volume (m <sup>3</sup> )
Total volume: .....			m <sup>3</sup>

- 5.3.3 The ship has been supplied with a valid Dedicated Clean Ballast Tank Operation Manual, which is dated .....
- 5.3.4 The ship has common piping and pumping arrangements for ballasting the CBT and handling cargo oil
- 5.3.5 The ship has separate independent piping and pumping arrangements for ballasting the CBT
- 5.4 Crude oil washing (COW)
  - 5.4.1 The ship is equipped with a COW system in compliance with regulation 13B

- 5.4.2 The ship is equipped with a COW system in compliance with regulation 13B except that the effectiveness of the system has not been confirmed in accordance with regulation 13(6) and paragraph 4.2.10 of the Revised COW Specifications (resolution A.446 (XI))<sup>2</sup>
- 5.4.3 The ship has been supplied with a valid Crude Oil Washing Operations and Equipment Manual, which is dated .....
- 5.4.4 The ship is not required to be but is equipped with COW in compliance with the safety aspects of the Revised COW Specifications (resolution A.446(XI))<sup>2</sup>
- <sup>2</sup>  
( See IMO sales publication IMO-617E)
- 5.5 Exemption from regulation 13:
- 5.5.1 The ship is solely engaged in trade between .....  
.....  
in accordance with regulation 13C and is therefore exempted from the requirements of regulation 13
- 5.5.2 The ship is operating with special ballast arrangements in accordance with regulation 13D and is therefore exempted from the requirements of regulation 13
- 5.6 Limitation of size and arrangements of cargo tanks (regulation 24):
- 5.6.1 The ship is required to be constructed according to, and complies with, the requirements of regulation 24
- 5.6.2 The ship is required to be constructed according to, and complies with, the requirements of regulation 24 (4) (see regulation 2(2))
- 5.7 Subdivision and stability (regulation 25):
- 5.7.1 The ship is required to be constructed according to, and complies with, the requirements of regulation 25
- 5.7.2 Information and data required under regulation 25(5) have been supplied to the ship in an approved form
- 5.8 Double hull construction:
- 5.8.1 The ship is required to be constructed according to regulation 13F and complies with the requirements of:
- 1 paragraph (3) (double hull construction)
- 2 paragraph (4) (mid-height deck tankers with double side construction)
- 3 paragraph (5) (alternative method approved by the Marine Environment Protection Committee)
- 5.8.2 The ship is required to be constructed according to and complies with the requirements of regulation 13F(7) (double bottom requirements)
- 5.8.3 The ship is not required to comply with the requirements of regulation 13F
- 5.8.4 The ship is subject to regulation 13G and:
- 1 is required to comply with regulation 13F not later than  
.....
- 2 is so arranged that the following tanks or spaces are not used for the carriage of oil
- 5.8.5 The ship is not subject to regulation 13G

**6. Retention of oil on board**

(regulation 15)

6.1 Oil discharge monitoring and control system:

- 6.1.1 The ship comes under category .....<sup>3</sup> oil tanker as defined in resolution A. 496 (XII) or A.586(14) (delete as appropriate)

  - 1 fitted with a starting interlock
  - 2 fitted with automatic stopping device

<sup>3</sup> (*Oil tankers the keels of which are laid, or which are at a similar stage of construction, on or after 2 October, 1986 should be fitted with a system approved under resolution A.586(14); see IMO sales publication IMO-646E.*)

6.1.2 The system comprises:

- 1 control unit
- 2 computing unit
- 3 calculating unit

6.1.3 The system is:

6.1.4 The oil content meter is approved under the terms of resolution A.393(X) or A.586<sup>4</sup> (14) (delete as appropriate) suitable for:

- 1 crude oil
- 2 black products
- 3 white products
- 4 oil-like noxious liquid substances as listed in the attachment to the certificate

<sup>4</sup> (*For oil content meters installed on tankers built prior to 2 October 1986, refer to the Recommendation on international performance and test specifications for oil water separating equipment and oil content meters adopted by the Organization by resolution A.393 (X). For oil content meters as part of discharge monitoring and control systems installed on tankers built on or after 2 October 1986, refer to the Guidelines and specification for oil discharge monitoring and control systems for oil tankers adopted by the Organization by resolution A.586(14); see IMO sales publications IMO-608E and IMO-646E, respectively.*)

6.1.5 The ship has been supplied with an operations manual for the oil discharge monitoring and control system

6.2 Slop tanks:

6.2.1 The ship is provided with .....dedicated slop tank(s) with the total capacity of .....m3 which is .....% of the oil carrying capacity, in accordance with:

- 1 regulation 15 (2)(c)
- 2 regulation 15 (2)(c)(i)
- 3 regulation 15 (2)(c)(ii)
- 4 regulation 15 (2)(c)(iii)

6.2.2 Cargo tanks have been designated as slop tanks

6.3 Oil/Water interface detectors:

6.3.1 The ship is provided with oil/water interface detectors approved under the terms of resolution MEPC 5(XIII)

<sup>5</sup>  
( Refer to the Specification for oil/water interface detectors adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.5(XIII); see IMO sales publications IMO-646E.)

6.4 Exemptions from regulation 15:

6.4.1 The ship is exempted from the requirements of regulation 15(1), (2) and (3) in accordance with regulation 15(7)

6.4.2 The ship is exempted from the requirements of regulation 15 (1), (2) and (3) in accordance with regulation 2(2 )

6.5 Waiver of regulation 15:

6.5.1 The requirements of regulation 15(3) are waived in respect of the ship in accordance with regulation 15(5)(b). The ship is engaged exclusively on:

1 specific trade under regulation 13C.....

2 voyages within special area(s) .....

3 voyages within 50 miles of the nearest land outside special area(s) of 72 hours or less in duration restricted to .....

**7 Pumping, piping and discharge arrangements**

(regulation 18)

7.1 The overboard discharge outlets for segregated ballast are located:

7.1.1 Above the waterline

7.1.2 Below the waterline

7.2 The overboard discharge outlets, other than the discharge manifold, for clean ballast are located:

<sup>6</sup>  
( Only those outlets which can be monitored are to be indicated)

7.2.1 Above the waterline

7.2.2 Below the waterline

7.3 The overboard discharge outlets, other than the discharge manifold, for dirty ballast water or oil-contaminated water from cargo tank areas are located:

<sup>6</sup>  
( Only those outlets which can be monitored are to be indicated)

7.3.1 Above the waterline

7.3.2 Below the waterline in conjunction with the part flow arrangements in compliance with regulation 18 (6) (e)

7.3.3 Below the waterline



- 7.4 Discharge of oil from cargo pumps and oil lines (regulation 18(4) and (5)):
- 7.4.1 Means to drain all cargo pumps and oil lines at the completion of cargo discharge:
  - 1 drainings capable of being discharged to a cargo tank or slop tank
  - 2 for discharge ashore a special small-diameter line is provided

**8 Shipboard oil pollution emergency plan**

(regulation 26)

- 8.1 The ship is provided with a shipboard oil pollution emergency plan in compliance with regulation 26

**9 Equivalent arrangements for chemical tankers carrying oil**

9.1 As equivalent arrangements for the carriage of oil by a chemical tanker, the ship is fitted with the following equipment in lieu of slop tanks (paragraph 6.2 above) and oil/water interface detectors (paragraph 6.3 above):

9.1.1 Oily-water separating equipment capable of producing effluent with oil content less than 100 ppm, with the capacity of .....m3/h

9.1.2 A holding tank with the capacity of .....m3

9.1.3 a tank for collecting tank washings which is:

- 1 a dedicated tank
- 2 a cargo tank designated as a collecting tank

9.1.4 A permanently installed transfer pump for overboard discharge of effluent containing oil through the oily-water separating equipment

9.2 The oily-water separating equipment has been approved under the terms of resolution A.393(X)<sup>7</sup> and is suitable for the full range of Annex 1 products

<sup>7</sup>  
( Refer to the guidelines and specifications for pollution prevention equipment for machinery space bilges adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC. 60(33), which, effective on 6 July, 1993, superseded resolution A.393 (X); see IMO sales publication IMO 646-E.)

9.3 The ship holds a valid Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk

**10. Oil-like noxious liquid substances**

10.1 The ship is permitted, in accordance with regulation 14 of Annex II of the convention,<sup>8</sup> to carry the oil-like noxious liquid substances specified in the list attached

<sup>8</sup>  
( The list of oil-like noxious substances permitted for carriage, signed, dated and certified by a seal or stamp of the issuing authority, shall be attached.)

**11 Exemption**

11.1 Exemptions have been granted by the Administration from the requirements of chapter II of Annex I of the Convention in accordance with regulation 2 (4)(a) on those items listed under paragraph(s) .....

.....  
.....of this Record

**12 Equivalents**

(regulation 3)

12.1 Equivalents have been approved by the Administration for certain requirements of Annex I on those items listed under paragraph(s) .....

.....of this Record.

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued .....at

*(Place of issue of the Record)*

.....  
*(Signature of duly authorised officer issuing the Record)*

*(Seal or stamp of the issuing authority, as appropriate)*

**SCHEDULE 5**

Section 69

**FORM OF OIL RECORD BOOK**

**OIL RECORD BOOK – PART I**

**Machinery space operations (All ships)**

Name of ship:

Distinctive number or letters:

Gross tonnage:

Period from:                      to:

*Note: Oil Record Book Part I shall be provided to every oil tanker of 150 tons gross tonnage and above and every ship of 400 tons gross tonnage and above, other than oil tankers, to record relevant machinery space operations. For oil tankers, Oil Record Book Part II shall also be provided to record relevant cargo/ballast operations.*

**Introduction**

The following pages of this section show a comprehensive list of items of machinery space operations which are, when appropriate, to be recorded in the Oil Record Book in accordance with regulation 20 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the protocol of 1978 relating thereto (MARPOL 73/78). The items have been grouped into operational sections, each of which is denoted by a letter code.

When making entries in the Oil Record Book, the date, operational code and item number shall be inserted in the appropriate columns and the required particulars shall be recorded chronologically in the blank spaces.

Each completed operation shall be signed for and dated by the officer or officers in charge. Each completed page shall be signed by the master of the ship.

The Oil Record Book contains many references to oil quantity. The limited accuracy of tank measurement devices, temperature variations and clingage will affect the accuracy of these readings. The entries in the Oil Record Book should be considered accordingly.

**List of Items to Be Recorded**

**(A) Ballasting or cleaning of oil fuel tanks**

1. Identity of tank(s) ballasted.
2. Whether cleaned since they last contained oil and, if not, type of oil previously carried.
3. Cleaning process:
  - 1 position of ship and time at the start and completion of cleaning;
  - 2 identify tank(s) in which one or another method has been employed (rinsing through, steaming, cleaning with chemicals; type and quantity of chemicals used);
  - 3 identity of tank(s) into which cleaning water was transferred.
4. Ballasting:
  - 1 position of ship and time at start and end of ballasting;
  - 2 quantity of ballast if tanks are not cleaned.

**(B) Discharge of dirty ballast or cleaning water from oil fuel tanks referred to under section (A)**

5. Identity of tank(s).
6. Position of ship at start of discharge.
7. Position of ship on completion of discharge.
8. Ship's speed(s) during discharge.
9. Method of discharge:
  - 1 through 100 ppm equipment;
  - 2 through 15 ppm equipment;
  - 3 to reception facilities.
10. Quantity discharged.

**(C) Collection and disposal of oil residues (sludge)**

11. Collection of oil residues.

Quantities of oil residues (sludge) retained on board at the end of a voyage, but not more frequently than once a week. When ships are on short voyages, the quantity should be recorded weekly:

<sup>1</sup> (*Only in tanks listed in item 3 of Form A and B of the Supplement to the IOPP Certificate.*)

- 1 separated sludge (sludge resulting from purification of fuel and lubricating oils) and other residues, if applicable:
  - identity of tank(s) .....<sup>3</sup>
  - capacity of tank(s) .....<sup>m</sup><sub>3</sub>
  - total quantity of retention .....m
- 2 other residues (such as oils, residues resulting from drainages, leakages, exhausted oil, etc., in the machinery spaces), if applicable due to tank arrangement in addition to .1:
  - identity of tank(s) .....<sup>3</sup>
  - capacity of tank(s) .....<sup>m</sup><sub>3</sub>
  - total quantity of retention .....m

12. Methods of disposal of residue.

State quantity of oil residues disposed of, the tank(s) emptied and the quantity of contents retained:

- 1 to reception facilities (identify port);
- 2 transferred to another (other) tank(s) (indicated tank(s) and the total content of tank(s));
- 3 incinerated (indicate total time of operation);
- 4 other method (state which).

<sup>2</sup> (*Ships' masters should obtain from the operator of the reception facilities, which include barges and tank trucks, a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of the transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book.*)

**(D) Non-automatic discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces**

13. Quantity discharged or disposed of.
14. Time of discharge or disposal (start and stop).
15. Method of discharge or disposal:
  - 1 through 100 ppm equipment (state position at start and end):
  - 2 through 15 ppm equipment (state position at start and end):
  - 3 to reception facilities (identify port):2
  - 4 transfer to slop tank or holding tank (indicate tank(s): state quantity transferred and the total quantity retained in tanks(s)).

**(E) Automatic discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces.**

16. Time and position of ship at which the system has been put into automatic mode of operation for discharge overboard.
17. Time when the system has been put into automatic mode of operation for transfer of bilge water to holding tank (identify tank).
18. Time when the system has been put into manual operation.
19. Method of discharge overboard:
  - 1 through 100 ppm equipment;
  - 2 through 15 ppm equipment.

**(F) Condition of oil discharge monitoring and control system**

20. Time of system failure.
21. Time when system has been made operational.
22. Reasons for failure.

**(G) Accidental or other exceptional discharges of oil**

23. Time of occurrence.
24. Place or position of ship at time of occurrence.
25. Approximate quantity and type of oil.
26. Circumstances of discharge or escape, the reasons therefor and general remarks.

**(H) Bunkering of fuel or bulk lubricating oil**

27. Bunkering:
  - 1 Place of bunkering
  - 2 Time of bunkering
  - 3 Type and quantity of fuel oil and identity of tank(s) (state quantity added and total content of tank(s)).
  - 4 type and quantity of lubricating oil and identity of tank(s) (state quantity added and total content of tank(s)).

**(I) Additional operational procedures and general remarks**

Name of ship .....

Distinctive number or letters .....

CARGO/BALLAST OPERATIONS (OIL TANKERS)\*/MACHINERY SPACE OPERATIONS (ALL SHIPS)\*

(\*delete as appropriate)

Date	Code (letter)	Item (number)	Record of operations/sign of officer in charge

Signature of master .....

\_\_\_\_\_

**OIL RECORD BOOK - PART II**

**Cargo/ballast operations -(Oil tankers)**

Name of ship:

Distinctive number or letters:

Gross tonnage:

Period from:                      to:

*Note: Every oil tanker of 150 tons gross tonnage and above shall be provided with Oil Record Book Part II to record relevant cargo/ballast operations. Such a tanker shall also be provided with Oil Record Book Part I to record relevant machinery space operations.*

Name of ship.....

Distinctive number or letters .....

**PLAN VIEW OF CARGO AND SLOP TANKS  
(TO BE COMPLETED ON BOARD)**

Identification of the tanks	Capacity
Depth of slop tank(s)	

(Give the capacity of each tank and the depth of each slop tank(s))

**Introduction**

The following pages of this section show a comprehensive list of items of cargo and ballast operations which are, when appropriate, to be recorded in the Oil Record Book in accordance with regulation 20 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the protocol of 1978 relating thereto (MARPOL 73/78). The items have been grouped into operational sections, each of which is denoted by a code letter.

When making entries in the Oil Record Book, the date, operational code and item number shall be inserted in the appropriate columns and the required particulars shall be recorded chronologically in the blank spaces.

Each completed operation shall be signed for and dated by the officer or officers in charge. Each completed page shall be signed by the master of the ship. In respect of the oil tankers engaged in specific trades in accordance with regulation 13C of Annex I of MARPOL 73/78, appropriate entry in the Oil Record Book shall be endorsed by the competent port State authority.\*

The Oil Record Book contains many references to oil quantity. The limited accuracy of tank measurement devices, temperature variations and clingage will affect the accuracy of these readings. The entries in the Oil Record Book should be considered accordingly.

*(\* This sentence should be inserted for the Oil Record Book of a tanker engaged in a specific trade.)*

**List of Items to be Recorded**

**(A) Loading of oil cargo**

1. Place of loading
2. Type of oil loaded and identity of tank(s).
3. Total quantity of oil loaded (state quantity added and the total content of tank(s)).

**(B) Internal transfer of oil cargo during voyage**

4. Identity of tank(s):
  - 1 from:
  - 2 to: (state quantity transferred and total quantity of tank(s))
5. Was (were) the tank(s) in 4.1 emptied? (If not, state quantity retained).

**(C) Unloading of oil cargo**

6. Place of unloading
7. Identity of tank(s) unloaded.
8. Was (were) the tank(s) emptied? (If not, state quantity retained.)

**(D) Crude oil washing (COW tankers only)**

(To be completed for each tank being crude oil washed)

9. port where crude oil washing was carried out of ship's position if carried out between two discharge ports.

10. Identity of tank(s) washed.<sup>4</sup>

<sup>4</sup>  
*( When an individual tank has more machines than can be operated simultaneously, as described in the Operations and Equipment Manual, then the section being crude oil washed should be identified, e.g. No. 2 centre, forward section.)*

11. Number of machines in use.

12. Time of start of washing.

13. Washing pattern employed.<sup>5</sup>

<sup>5</sup>  
*( In accordance with the Operations and Equipment Manual, enter whether single-stage or multi-stage method of washing is employed. If multi-stage method is used, give the vertical arc covered by the machines and the number of times that arc is covered for that particular stage of the programme.)*

14. Washing line pressure.

15. Time washing was completed or stopped.

16. State method of establishing that tank(s) was (were) dry.

17. Remarks.<sup>6</sup>

<sup>6</sup>  
*( If the programmes given in the Operations and Equipment Manual are not followed, then the reasons must be given under Remarks.)*



**(E) Ballasting of cargo tanks**

18. Position of ship at start and end of ballasting.

19. Ballasting process:

- 1 identity of tank(s) ballasted:
- 2 time of start and end:
- 3 quantity of ballast received. Indicate total quantity of ballast for each tank involved in the operation.

**(F) Ballasting of dedicated clean ballast tanks (CBT tankers only)**

20. Identity of tank(s) ballasted

21. Position of ship when water intended for flushing, or port ballast was taken to dedicated clean ballast tank(s).

22. Position of ship when pump(s) and lines were flushed to slop tank.

23. Quantity of the oily water which, after line flushing, is transferred to the slop tank(s) or cargo tank(s) in which slop is preliminarily stored (identify tank(s)). State the total quantity.

24. Position of ship when additional ballast water was taken to dedicated clean ballast tank(s).

25. Time and position of ship when valves separating the dedicated clean ballast tanks from cargo and stripping lines were closed.

26. Quantity of clean ballast taken on board.

**(G) Cleaning of cargo tanks**

27. Identity of tank(s) cleaned.

28. Port or ship's position

29. Duration of cleaning.

30. Method of cleaning.<sup>7</sup>

*( Hand-hosing, machine washing and/or chemical cleaning. Where chemically cleaned, the chemical concerned and amount should be stated.)*

31. Tank washings transferred to:

- 1 reception facilities (state port and quantity)<sup>8</sup> ;
- 2 slop tank(s) or cargo tank(s) designated as slop tank(s) (identify tank(s); state quantity transferred and total quantity).

<sup>8</sup>  
*( Ships' masters should obtain from the operator of the reception facilities, which include barges and tank trucks, a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book. )*

**(H) Discharge of dirty ballast**

32. Identity of tank(s).

33. Position of ship at start of discharge into the sea.

34. Position of ship on completion of discharge into the sea.

35. Quantity discharged into the sea.

36. Ship's speed(s) during discharge.

37. Was the discharge monitoring and control system in operation during the discharge?

38. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?

39. Quantity of oily water transferred to slop tank(s) (identify slop tank(s)). State total quantity.

40. Discharged to shore reception facilities (identify port and quantity involved).<sup>8</sup>

<sup>8</sup>  
( Ships' masters should obtain from the operator of the reception facilities, which include barges and tank trucks, a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book. )

**(I) Discharge of water from slop tanks into the sea**

41. Identity of slop tanks.

42. Time of settling from last entry of residues.

43. Time of settling from last discharge.

44. Time and position of ship at start of discharge.

45. Ullage of total contents at start of discharge.

46. Ullage of oil/water interface at start of discharge.

47. Bulk quantity discharged and rate of discharge.

48. Final quantity discharged and rate of discharge.

49. Time and position of ship on completion of discharge.

50. Was the discharge monitoring and control system in operation during the discharge?

51. Ullage of oil/water interface on completion of discharge.

52. Ship's speed(s) during discharge.

53. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?

54. Confirm that all applicable valves in the ship's piping system have been closed on completion of discharge from the slop tanks.

**(J) Disposal of residues and oily mixture not otherwise dealt with**

55. Identity of tank(s).

56. Quantity disposed of from each tank. (State the quantity retained).

57. Method of disposal:

1 to reception facilities (identify port and quantity involved):<sup>8</sup>

2 mixed with cargo (state quantity)

3 transferred to (an) other tank(s) (identify tank(s); state quantity transferred and total quantity in tank(s));

4 other method (state which); state quantity disposed of.

<sup>8</sup>  
( Ships' masters should obtain from the operator of the reception facilities, which include barges and tank trucks, a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book. )

**(K) Discharge of clean ballast contained in cargo tanks**

- 58. Position of ship at start of discharge of clean ballast.
- 59. Identity of tank(s) discharged.
- 60. Was (were) the tank(s) empty on completion?
- 61. Position of ship on completion if different from 58.
- 62. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?

**(L) Discharge of ballast from dedicated clean ballast tanks (CBT tankers only)**

- 63. Identity of tank(s) discharged.
- 64. Time and position of ship at start of discharge of clean ballast into the sea.
- 65. Time and position of ship on completion of discharge into the sea.
- 66. Quantity discharged:
  - 1 into the sea; or
  - 2 to reception facility (identify port).
- 67. Was there any indication of oil contamination of the ballast water before or during discharge into the sea?
- 68. Was the discharge monitored by an oil content meter?
- 69. Time and position of ship when valves separating dedicated clean ballast tanks from the cargo and stripping lines were closed on completion of deballasting.

**(M) Condition of oil discharge monitoring and control system**

- 70. Time of system failure.
- 71. Time when system has been made operational.
- 72. Reasons for failure.

**(N) Accidental or other exceptional discharges of oil**

- 73. Time of occurrence.
- 74. Port of ship's position at time of occurrence.
- 75. Approximate quantity and type of oil.
- 76. Circumstances of discharge or escape, the reasons therefor and general remarks.

**(O) Additional operational procedures and general remarks**

Tankers engaged in specific trades

**(P) Loading of ballast water**

- 77. Identity of tank(s) ballasted.
- 78. Position of ship when ballasted.
- 79. Total quantity of ballast loaded in cubic metres.
- 80. Remarks.

**(Q) Re-allocation of ballast water within the ship.**

- 81. Reasons for re-allocation.

**(R) Ballast water discharge to reception facility**

- 82. Port(s) where ballast water was discharged.

- 83. Name or designation of reception facility.
- 84. Total quantity of ballast water discharged in cubic metres.
- 85. Date, signature and stamp of port authority official.

Name of ship .....  
 Distinctive number or letters .....

CARGO/BALLAST OPERATIONS (OIL TANKERS)\*/MACHINERY SPACE OPERATIONS (ALL SHIPS)\*

(\*delete as appropriate)

Date	Code (letter)	Item (number)	Record of operations/sign of officer in charge

Signature of master .....

Section 74, 79, 81, 114, 116 and 190

**SCHEDULE 6**

**LIST OF NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK**

Noxious liquid substances carried in bulk and which are presently categorised as Category A, B, C or D and subject to the provisions of Annex II of MARPOL, are so indicated in the Pollution Category column of chapters 17 or 18 of the International Bulk Chemical Code.

Section 79

**SCHEDULE 7**

**GUIDELINES FOR THE CATEGORISATION OF NOXIOUS LIQUID SUBSTANCES**

- Category A Substances which are bioaccumulated and liable to produce a hazard to aquatic life or human health, or which are highly toxic to aquatic life (as expressed by a Hazard Rating 4, defined by a TLM less than 1 ppm); and additionally certain substances which are moderately toxic to aquatic life (as expressed by a Hazard Rating 3, defined by a TLM of 1 ppm or more, but less than 10 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.
- Category B Substances which are bioaccumulated with a short retention of the order of one week or less, or which are liable to produce tainting of the sea food, or which are moderately toxic to aquatic life (as expressed by a Hazard Rating 3, defined by a TLM of 1 ppm or more, but less than 10 ppm); and additionally certain substances which are slightly toxic to aquatic life (as expressed by a Hazard rating 2, defined by a TLM of 10 ppm or more, but less than 100 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.
- Category C Substances which are slightly toxic to aquatic life (as expressed by a Hazard Rating 2, defined by a TLM of 10 ppm or more, but less than 100 ppm); and additionally certain substances which are practically non-toxic to aquatic life (as

expressed by a Hazard Rating 1, defined by a TLM of 100 ppm or more, but less than 1,000 ppm) when a particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category D Substances which are practically non-toxic to aquatic life (as expressed by a Hazard Rating 1, defined by a TLM of 100 ppm or more, but less than 1,000 ppm); or causing deposits blanketing the sea floor with a high biochemical oxygen demand (BOD); or which are highly hazardous to human health, with an LD50 of less than 5 mg/kg; or which produce moderate reduction of amenities because of persistency, smell or poisonous or irritant characteristics, possibly interfering with use of beaches; or which are moderately hazardous to human health, with an LDC50 of 5 mg/kg or more, but less than 50 mg/kg, and produce slight reduction of amenities.

**Other Liquid Substances** (for the purposes of regulation 4 of Annex II of MARPOL)

Substances other than those categorised in Categories A, B, C, and D above.

### SCHEDULE 8

#### LIST OF OTHER LIQUID SUBSTANCES

Liquid substances carried in bulk which are identified as falling outside Categories, A, B, C and D are not subject to the provisions of Annex II of MARPOL and indicated as 'III' in the Pollution Category column of chapters 17 or 18 of the International Bulk Chemical Code.

### SCHEDULE 9

Section 99

#### FORM OF CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK

##### FORM OF CARGO RECORD BOOK

##### CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK

Name of ship .....

Distinctive number or letters .....

Gross tonnage .....

Period from ..... to .....

*(Note: Every ship carrying noxious liquid substances in bulk shall be provided with a Cargo Record Book to record relevant cargo/ballast operations.)*

Name of ship .....

Distinctive number or letters .....

**PLAN VIEW OF CARGO AND SLOP TANKS  
(TO BE COMPLETED ON BOARD)**

Identification of the tanks	Capacity

(Give the capacity of each tank in cubic metres)

**Introduction**

The following pages show a comprehensive list of items of cargo and ballast operations which are, when appropriate, to be recorded in the Cargo Record Book on a tank-to-tank basis in accordance with paragraph 2 of regulation 9 of Annex II of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended. The items have been grouped into operational sections, each of which is denoted by a letter.

When making entries in the Cargo Record Book, the date, operational code and item number shall be inserted in the appropriate columns and the required particulars shall be recorded chronologically in the blank spaces.

Each completed operation shall be signed for and dated by the officer or officers in charge and, if applicable, by a surveyor authorised by the competent authority of the State in which the ship is unloading. Each completed page shall be countersigned by the master of the ship.

Entries in the Cargo Record Book are required only for operations involving Categories A, B, C, and D substances.

**List of items to be recorded**

Entries are required only for operations involving Categories A, B, C, and D substances.

**(A) Loading of cargo**

1. Place of loading.
2. Identify tank(s), name of substance(s) and category(ies).

**(B) Internal transfer of cargo**

3. Name and category of cargo(es) transferred.
4. Identity of tanks:
  - 1 from:
  - 2 to:

5. Was (were) tank(s) in 4.1 emptied?
6. If not, quantity remaining in tank(s).

**(C) Unloading of cargo**

7. Place of unloading.
8. Identity of tank(s) unloaded.
9. Was (were) tank(s) emptied?
  - 1 If yes, confirm that the procedure for emptying and stripping has been performed in accordance with the ship's Procedures and Arrangements Manual (i.e. list, trim, stripping temperature).
  - 2 If not, quantity remaining in tank(s).
10. Does the ship's Procedures and Arrangements Manual require a prewash with subsequent disposal to reception facilities?
11. Failure of pumping and/or stripping system:
  - 1 time and nature of failure;
  - 2 reasons for failure;
  - 3 time when system has been made operational.

**(D) Mandatory prewash in accordance with the ship's Procedures and Arrangements Manual**

12. Identify tank(s), substance(s) and category(ies).
13. Washing method:
  - 1 number of washing machines per tank;
  - 2 duration of wash/washing cycles;
  - 3 hot/cold wash.

14. Prewash slops transferred to:
  - 1 reception facility in unloading port (identify port);
  - 2 reception facility otherwise (identify port).

**(E) Cleaning of cargo tanks except mandatory prewash (other prewash operations, final wash, ventilation etc.)**

15. State time, identify tank(s), substance(s) and category(ies) and state:
  - 1 washing procedure used;
  - 2 cleaning agent(s) (identify agent(s) and quantities);
  - 3 dilution of cargo residues with water (state how much water used (only Category D substances));
  - 4 ventilation procedure used (state number of fans used, duration of ventilation).

16. Tank washings transferred:

- 1 into the sea;
- 2 to reception facility (identify port);
- 3 to slops collecting tank (identify tank).

**(F) discharge into the sea of tank washings**

17. Identify tank(s):

- 1 Were tank washings discharged during cleaning of tank(s)? If so at what rate?
- 2 Were tank washing(s) discharged from a slops collecting tank? If so, state quantity and rate of discharge.

18. Time pumping commenced and stopped.

19. Ship's speed during discharge.

**(G) Ballasting of cargo tanks**

20. Identity of tank(s) ballasted.

21. Time at start of ballasting.

**(H) discharge of ballast water from cargo tanks**

22. Identity of tank(s)

23. Discharge of ballast:

- 1 into the sea;
- 2 to reception facilities (identify port)

24. Time ballast discharge commenced and stopped.

25. Ship's speed during discharge.

**(I) Accidental or other exceptional discharge**

26. Time of occurrence.

27. Approximate quantity, substance(s) and category(ies).

28. Circumstances of discharge or escape and general remarks.

**(J) Control by authorised surveyors**

29. Identify port.

30. Identify tank(s), substance(s), category(ies) discharged ashore.

31. Have tank(s), pump(s), and piping system(s) been emptied?

32. Has a prewash in accordance with the ship's Procedures and Arrangements Manual been carried out?

33. Have tank washings resulting from the prewash been discharged ashore and is the tank empty?

34. An exemption has been granted from mandatory prewash.

35. Reasons for exemption.

36. Name and signature of authorised surveyor.

37. Organisation, company, government agency for which surveyor works.



**(K) Additional operational procedures and remarks**

Name of ship .....

Distinctive number or letters .....

**CARGO/BALLAST OPERATIONS**

Date	Code (letter)	Item (number)	Record of operations/signature of officer in charge/name of and signature of authorised surveyor

.....  
(Signature of Master)

**SCHEDULE 10**

**FORM OF NLS CERTIFICATE**

**INTERNATIONAL POLLUTION PREVENTION CERTIFICATE FOR THE CARRIAGE OF NOXIOUS LIQUID SUBSTANCES IN BULK**

Issued under the provisions of the International Convention for the prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (hereinafter referred to as “the Convention”), under the authority of the government of:

.....  
(full designation of the country)

by .....  
(full designation of the competent person or organisation authorised under the provisions of the Convention)

Name of ship	Distinctive number or letters	Port of registry	Gross tonnage

**THIS IS TO CERTIFY:**

1. That the ship has been surveyed in accordance with the provisions of regulation 10 of Annex II of the Convention.
2. That the survey showed that the structure, equipment, systems, fitting, arrangements and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex II of the convention.
3. That the ship has been provided with a Manual in accordance with the Standards for Procedures and Arrangements as called for by regulation 5, 5A and 8 of Annex II of the Convention, and that the arrangements and equipment of the ship prescribed in the manual are in all respects satisfactory and comply with the applicable requirements of the said Standards.
4. That the ship is suitable for the carriage in bulk of the following noxious liquid substances, provided that all relevant operational provisions of Annex II of the Convention are observed.

Noxious liquid substances	Conditions of carriage (tank numbers etc.)
*continued on additional signed and dated sheets	

(\*Delete as necessary)

This certificate is valid until .....subject to surveys in accordance with regulation 10 of Annex II of the Convention.

Issued at .....  
(Place of issue of certificate)

.....  
(Date of issue) (signature of duly authorised official issuing the certificate)

(Seal or stamp of the authority, as appropriate)

**ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS**

THIS IS TO CERTIFY that, at a survey required by regulation 10 of Annex II of the Convention, the ship was found to comply with the relevant provisions of the Convention:

Annual survey Signed .....  
(signature of duly authorised official)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

Annual / Intermediate \*survey Signed .....  
(signature of duly authorised official)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

Annual / Intermediate \*survey Signed .....  
(signature of duly authorised official)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

Annual survey Signed .....  
(signature of duly authorised official)  
Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

(\*Delete as appropriate)

**ANNUAL/INTERMEDIATE SURVEY IN ACCORDANCE WITH REGULATION 12(8)(c)**

THIS IS TO CERTIFY that, at an annual/intermediate\* survey in accordance with regulation 12(8)(c) of Annex II of the Convention, the ship was found to comply with the relevant provisions of the Convention:

Signed .....  
(Signature of authorised official)

Place .....

Date .....

*(Seal or stamp of the authority, as appropriate)*

*(\*Delete as appropriate)*

**ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE REGULATION 12(3) APPLIES**

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 12(3) of Annex II of the Convention, be accepted as valid until.....

Signed .....

*(Signature of authorised official)*

Place .....

Date .....

*(Seal or stamp of the authority, as appropriate)*

**ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN COMPLETED AND REGULATION 12(4) APPLIES**

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 12(4) of Annex II of the Convention, be accepted as valid until.....

Signed .....

*(Signature of authorised official)*

Place .....

Date .....

*(Seal or stamp of the authority, as appropriate)*

**ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE WHERE REGULATION 12(5) OR 12(6) APPLIES**

This Certificate shall, in accordance with regulation 12(5) or 12(6)\* of Annex II of the Convention, be accepted as valid until.....

Signed .....

*(Signature of authorised official)*

Place .....

Date .....

*(Seal or stamp of the authority, as appropriate)*

*(\*Delete as appropriate)*

**SCHEDULE 11**

**GUIDELINES FOR THE IDENTIFICATION OF HARMFUL SUBSTANCES IN PACKAGED FORM**

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances:

- bioaccumulated to a significant extent and known to produce a hazard to aquatic life or to human health (Hazard Rating “+” in column A) ; or
- bioaccumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less (Hazard Rating “Z” in column A) ; or
- liable to produce tainting of seafood (Hazard Rating “T” in column A) ; or

- highly toxic to aquatic life, defined by a LC<sub>50/96</sub><sup>2</sup> hour less than 1 ppm (hazard Rating “4” in column B) .<sup>1</sup>

<sup>1</sup>  
( Refer to the Composite List of Hazard Profiles prepared by the IMO/FAO/UNESCO/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP), which is circulated annually by the Organization by means of BLG circulars to all IMO member States.)

<sup>2</sup>  
( The concentration of a substance which will within the specified time (generally 96 hours), kill 50% of the exposed group of test organisms. LC<sub>50</sub> is often specified in milligrams per litre (mg/l) or parts per million (ppm).)

**SCHEDULE 12**

**FORM OF ISPP CERTIFICATE**

**INTERNATIONAL SEWAGE POLLUTION PREVENTION CERTIFICATE (1973)**

Issued under the Provisions of the International Convention for the Prevention of Pollution from Ships, 1973, under the authority of the government of

.....  
(full designation of the country)

by .....  
(full designation of the competent person or organisation authorised under the provisions of the International convention for the Prevention of Pollution from Ships, 1973)

Name of Ship	Distinctive number or letters	Port of registry	Gross tonnage	Number of persons which the ship is certified to carry

New/existing ship\*

Date of building contract .....

Date on which keel was laid or ship was at a similar stage of construction .....

Date of delivery .....

**THIS IS TO CERTIFY:**

(1) The ship is equipped with a sewage treatment plant/comminuter/holding tank\* and a discharge pipeline in compliance with regulation 3(1)(a)(i) to (iv) of Annex IV of the Convention as follows:

(a) Description of the sewage treatment plant: type of sewage treatment plant .....

Name of manufacturer .....

The sewage treatment plant is certified by the Administration to meet the following effluent standards\*\*.....

\*(b) Description of comminuter .....

Type of comminuter.....

Name of manufacturer .....

Standard of sewage after disinfection .....

\*(c) Description of holding tank equipment:

Total capacity of the holding tank .....m<sup>3</sup>

Location .....

(d) A pipeline for the discharge of sewage to a reception facility fitted with a standard shore connection.

(2) the ship has been surveyed in accordance with regulation 3 of Annex IV of the International Convention for the Prevention of Pollution from ships, 1973, concerning the prevention of pollution by sewage and the survey showed that the equipment of the ship and the condition thereof are in all respects satisfactory and the ship complies with the applicable requirements of Annex IV of the Convention.

This certificate is valid until .....

Issued at .....  
(place of issue of certificate)

.....  
(Date of issue) (Signature of official issuing the certificate)

(Seal or stamp of the issuing authority, as appropriate)

Under the provisions of regulation 7(2) and (4) of Annex IV of the Convention the validity of this certificate is extended until .....

Signed .....  
(signature of duly authorised official)

Place.....

Date.....

(Seal or stamp of the authority, as appropriate)

(\*delete as appropriate) (\*\* parameters should be incorporated)

**SCHEDULE 13**

**SEWAGE DISCHARGE CONNECTION**

**STANDARD DIMENSIONS OF FLANGES FOR DISCHARGE CONNECTIONS**

<b>Description</b>	<b>Dimension</b>
Outside diameter	210 mm
Inner diameter	According to pipe outside diameter
Bolt circle diameter	170 mm
Slots in flange	4 holes 18 mm in diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width to be 18 mm
Flange thickness	16 mm
Bolts and nuts: quantity and diameter	4, each of 16 mm in diameter and of suitable length
The flange is designed to accept pipes up to a maximum internal diameter of 100 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a suitable gasket, shall be suitable for a service pressure of 6 kg/cm <sup>2</sup>	

For ships having a moulded depth of 5 m and less, the inner diameter of the discharge connection may be 38 mm.

**SCHEDULE 14**

**FORM OF GARBAGE RECORD BOOK**

Name of ship: .....

Distinctive number or letters: .....

IMO No: .....

Period: From..... To .....

**1. Introduction**

In accordance with regulation 9 of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78), a record is to be kept of each discharge operation or completed incineration. This includes discharges at sea, to reception facilities, or to other ships.

**2. Garbage and garbage management**

Garbage includes all kinds of food, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the vessel and liable to be disposed of continuously or periodically except those substances which are defined or listed in other annexes to MARPOL 73/78 (such as oil, sewage or noxious liquid substances).

The Guidelines for the Implementation of Annex V of MARPOL 73/78 should also be referred to for relevant information.

<sup>1</sup>  
(*Refer to the Guidelines for the Implementation of Annex V of MARPOL 73/78; see IMO sales publication IMO-656E*)

**3. Description of the garbage**

The garbage is to be grouped into categories for the purposes of this record book as follows:

- 1 Plastics
- 2 Floating dunnage, lining or packing material
- 3 Ground-down paper products, rags, glass, metal, bottles, crockery, etc.
- 4 Paper products, rags, glass, metal, bottles, crockery, etc.
- 5 Food waste
- 6 Incinerator ash.

**4 Entries in the Garbage Record Book**

4.1 Entries in the Garbage Record Book shall be made on each of the following occasions:

- (a) When garbage is discharged into the sea:
  - (i) Date and time of discharge
  - (ii) Position of the ship (latitude and longitude)
  - (iii) Category of garbage discharged
  - (iv) Estimated amount discharged for each category in cubic metres
  - (v) Signature of the officer in charge of the operation
- (b) When garbage is discharged to reception facilities ashore or to other ships:
  - (i) Date and time of discharge
  - (ii) Port or facility, or name of ship
  - (iii) Category of garbage discharged
  - (iv) Estimated amount discharged for each category in cubic metres
  - (v) Signature of officer in charge of the operation
- (c) When garbage is incinerated:
  - (i) Date and time of start and stop of incineration

- (ii) Position of the ship (latitude and longitude)
  - (iii) Estimated amount incinerated in cubic metres
  - (iv) Signature of the officer in charge of the operation
- (d) Accidental or other exceptional discharges of garbage
- (i) time of occurrence
  - (ii) Port or position of the ship at time of occurrence
  - (iii) Estimated amount and category of garbage
  - (iv) Circumstances of disposal, escape or loss, the reason therefor and general remarks.

4.2 Receipts

The master should obtain from the operator of port reception facilities, or from the master of the ship receiving the garbage, a receipt or certificate specifying the estimated amount of garbage transferred. The receipts or certificates must be kept on board the ship with the Garbage Record Book for two years.

4.3 Amount of garbage

separately according to category. The Garbage Record Book contains many references to estimated amount of garbage. It is recognised that the accuracy of estimating amounts of garbage is left to interpretation. Volume estimates will differ before and after processing. Some processing procedures may not allow for a usable estimate of volume, e.g. the continuous processing of food waste. Such factors should be taken into consideration when making and interpreting entries made in a record.

**RECORD OF GARBAGE DISCHARGES**

Ship's name ..... Distinctive no. or letters .....IMO No. ....

Garbage categories:

1. Plastic
2. Floating dunnage, lining, or packing materials.
3. Ground paper, products, rags, glass, metal, bottles, crockery, etc.
4. Paper products, rags, glass, metal, bottles, crockery, etc.
5. Food waste
6. Incinerator ash

**NOTE: THE DISCHARGE OF ANY GARBAGE OTHER THAN FOOD WASTE IS PROHIBITED IN SPECIAL AREAS. ONLY GARBAGE DISCHARGED INTO THE SEA MUST BE CATEGORISED. GARBAGE OTHER THAN CATEGORY 1 DISCHARGED TO RECEPTION FACILITIES NEED ONLY BE LISTED AS A TOTAL ESTIMATED AMOUNT.**

Date	Position of the ship	Estimated amount discharged into sea (m <sup>3</sup> )					Estimated amount discharged to reception facilities or to other ship (m <sup>3</sup> )		Estimated incinerated (m <sup>3</sup> )	Certification/ Signature
		Cat 2	Cat 3	Cat 4	Cat 5	Cat 6	Cat 1	Other		

Master's signature:..... Date: .....

## SCHEDULE 15

### ANNEX TO THE INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990

#### REIMBURSEMENT OF COSTS OF ASSISTANCE

1. (a) Unless an agreement concerning the financial arrangements governing actions of Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to the oil pollution incident, Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (i) or subparagraph (ii).
    - (i) If the action was taken by one Party at the express request of another Party, the requesting Party shall reimburse to the assisting Party the cost of its action. The requesting Party may cancel its request at any time, but in that case it shall bear the costs already incurred or committed by the assisting Party.
    - (ii) If the action was taken by a Party on its own initiative, this Party shall bear the costs of its action.
  - (b) The principles laid down in subparagraph (a) shall apply unless the Parties concerned otherwise agree in any individual case.
- (2) Unless otherwise agreed, the costs of action taken by a Party at the request of another Party shall be fairly calculated according to the law and current practice of the assisting Party concerning the reimbursement of such costs.
- (3) The Party requesting assistance and the assisting Party shall, where appropriate, cooperate in concluding any action in response to a compensation claim. To that end, they shall give due consideration to existing legal regimes. Where the action thus concluded does not permit full compensation for expenses incurred in the assistance operation, the Party requesting assistance may ask the assisting party to waive reimbursement of the expenses exceeding the sums compensated or to reduce the costs which have been calculated in accordance with paragraph (2). It may also request a postponement of the reimbursement of such costs. In considering such a request, assisting Parties shall give due consideration to the needs of the developing countries.
- (4) The provisions of this convention shall not be interpreted as in any way prejudicing the rights of Parties to recover from third parties the costs of actions to deal with pollution or the threat of pollution under other applicable provisions and rules of national and international law. Special attention shall be paid to the 1969 International Convention on Civil Liability for Oil Pollution Damage and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage or any subsequent amendment to those Conventions.

## SCHEDULE 16

### DUMPING OF WASTES

#### WASTES OR OTHER MATTER THAT MAY BE CONSIDERED FOR DUMPING

1. The following wastes or other matter are those that may be considered for dumping being mindful of the Objectives and General Obligations of the Convention set out in articles 2 and 3:
  - 1 dredged material
  - 2 sewage
  - 3 fish waste, or material resulting from industrial fish processing operations;
  - 4 vessels and platforms or other man-made structures at sea;
  - 5 inert, inorganic geological material;
  - 6 organic material of natural origin; and
  - 7 bulky items primarily comprising iron, steel, concrete and similarly unharmed materials for which the concern is physical impact, and limited to those circumstances



where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping.

2. The wastes or other matter listed in paragraphs 1.4 and 1.7 may be considered for dumping, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious obstacle to fishing or navigation.

3. Notwithstanding the above, materials listed in paragraphs 1.1 to 1.7 containing levels of radioactivity greater than *de minimis* (exempt) concentrations as defined by the IAEA and adopted by Contracting Parties, shall not be considered eligible for dumping; provided further that within 25 years of 20 February, 1994, and at each 25 year interval thereafter, Contracting Parties shall complete a scientific study relating to all radioactive wastes and other radioactive matter other than high level wastes or matter, taking into account such other factors as Contracting Parties consider appropriate and shall review the prohibition on dumping of such substances in accordance with the procedures set forth in article 22.

### **ASSESSMENT OF WASTES OR OTHER MATTER THAT MAY BE CONSIDERED FOR DUMPING**

#### **General**

1. The acceptance of dumping under certain circumstances shall not remove the obligations under this Annex to make further attempts to reduce the necessity for dumping.

#### **Waste Prevention Audit**

2. The initial stages in assessing alternative to dumping should, as appropriate, include an evaluation of:

- 1 product reformulation;
- 2 clean production technologies;
- 3 process modification;
- 4 input substitution; and
- 5 on-site, closed-loop recycling.

3. In general terms, if the required audit reveals that opportunities exist for waste prevention at source, an applicant is expected to formulate and implement a waste prevention strategy, in collaboration with relevant local and national agencies, which includes specific waste reduction targets and provision for further waste prevention audits to ensure that these targets are being met. Permit issuance or renewal decisions shall assure compliance with any resulting waste reduction and prevention requirements.

4. For dredged material and sewage sludge, the goal of waste management should be to identify and control the sources of contamination. This should be achieved through implementation of waste prevention strategies and requires collaboration between the relevant local and national agencies involved with the control of point and non-point sources of pollution. Until this objective is met, the problems of contaminated dredged material may be addressed by using management techniques at sea or on land.

#### **Consideration of Waste Management Options**

5. Applications to dump wastes or other matter shall demonstrate that appropriate consideration has been given to the following hierarchy of waste management options, which implies an order of increasing environmental impact:

- 1 re-use;
- 2 off-site recycling;
- 3 destruction of hazardous constituents;
- 4 treatment to reduce or remove the hazardous constituents; and
- 5 disposal on land, into air and in water.

6. A permit to dump wastes or other matter shall be refused if the permitting authority determines that appropriate opportunities exist to re-use, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs. The practical availability of other means of disposal should be considered in the light of a comparative risk assessment involving both dumping and the alternatives.

#### **Chemical, Physical And Biological Properties**

7. A detailed description and characterisation of the waste is an essential precondition for the consideration of alternatives and the basis for a decision as to whether a waste may be dumped. If a waste is so poorly characterised that proper assessment cannot be made of its potential impacts on human health and the environment, that waste shall not be dumped.

8. Characterisation of the wastes and their constituents shall take into account:

- 1 origin, total amount, form and average composition;
- 2 properties: physical, chemical, biochemical and biological;
- 3 toxicity;
- 4 persistence: physical, chemical and biological; and
- 5 accumulation and biotransformation in biological materials or sediments.

#### **Action List**

9. Each Contracting Party shall develop a national Action List to provide a mechanism for screening candidate wastes and their constituents on the basis of their potential effects on human health and the marine environment. In selecting substances for consideration in an Action List, priority shall be given to toxic, persistent and bioaccumulative substances from anthropogenic sources (e.g., cadmium, mercury, organohalogens, petroleum hydrocarbons, and, whenever relevant, arsenic, lead, copper, zinc, beryllium, chromium, nickel and vanadium, organosilicon compounds, cyanides, fluorides and pesticides or their by-products other than organohalogens). An Action List can also be used as a trigger mechanism for further waste prevention considerations.

10. An Action List shall specify an upper level and may also specify a lower level. The upper level should be set so as to avoid acute or chronic effects on human health or on sensitive marine organisms representative of the marine ecosystem. Application of an Action List will result in three possible categories of waste:

- 1 wastes which contain specified substances, or which cause biological responses, exceeding the relevant upper level shall not be dumped, unless made acceptable for dumping through the use of management techniques or processes;
- 2 wastes which contain specified substances, or which cause biological responses, below the relevant lower levels should be considered to be of little environmental concern in relation to dumping; and
- 3 wastes which contain specified substances, or which cause biological responses, below the upper level but above the lower level require more detailed assessment before their suitability for dumping can be determined.

#### **Dump Site Selection**

11. Information required to select a dump site shall include:

- 1 physical, chemical and biological characteristics of the water-column and the seabed;
- 2 location of amenities, values and other uses of the sea in the area under consideration;
- 3 assessment of the constituent fluxes associated with dumping in relation to existing fluxes of substances in the marine environment; and
- 4 economic and operational feasibility.

### **Assessment Of Potential Effects**

12. Assessment of potential effects should lead to a concise statement of the expected consequences of the sea or land disposal options, i.e., the “Impact Hypothesis”. It provides a basis for deciding whether to approve or reject the proposed disposal option and for defining environmental monitoring requirements.

13. The assessment for dumping should integrate information on waste characteristics, conditions at the proposed dump-site(s), fluxes and proposed disposal techniques and specify the potential effects on human health, living resources, amenities and other legitimate uses of the sea. It should define the nature, temporal and spatial scales and duration of expected impacts based on reasonably conservative assumptions.

14. An analysis of each disposal option should be considered in the light of a comparative assessment of the following concerns: human health risks, environmental costs, hazards, (including accidents), economics and exclusion of future uses. If this assessment reveals that adequate information is not available to determine the likely effects of the proposed disposal option then this option should not be considered further. In addition, if the interpretation of the comparative assessment shows the dumping option to be less preferable, a permit for dumping should not be given.

15. Each assessment should conclude with a statement supporting a decision to issue or refuse a permit for dumping.

### **Monitoring**

16. Monitoring is used to verify that permit conditions are met-compliance monitoring – and that the assumptions made during the permit review and site selection process were correct and sufficient to protect the environment and human health – field monitoring. It is essential that such monitoring programmes have clearly defined objectives.

### **Permit And Permit Conditions**

17. A decision to issue a permit should only be made if all impact evaluations are completed and the monitoring requirements are determined. The provisions of the permit shall ensure, as far as practicable, that environmental disturbance and detriment are minimised and the benefits maximised. Any permit issued shall contain data and information specifying:

- 1 the types and sources of materials to be dumped;
- 2 the location of the dump site(s);
- 3 the method of dumping; and
- 4 monitoring and reporting requirements.

18. Permits should be reviewed at regular intervals, taking into account the results of monitoring and the objectives of monitoring programmes. Review of monitoring results will indicate whether field programmes need to be continued, revised or terminated and will contribute to informed decisions regarding the continuance, modification or revocation of permits. This provides an important feedback mechanism for the protection of human health and the marine environment.

**SCHEDULE 17**  
**1996 PROTOCOL TO THE LONDON CONVENTION**  
**SETTLEMENT OF DISPUTES**

**Article 16**

1. Any disputes regarding the interpretation or application of this Protocol shall be resolved in the first instance through negotiation, mediation or conciliation, or other peaceful means chosen by parties to the dispute.
2. If no resolution is possible within twelve months after one Contracting Party has notified another that a dispute exists between them, the dispute shall be settled, at the request of a party to the dispute, by means of the Arbitral Procedure set forth in Annex 3, unless the parties to the dispute agree to one of the procedures listed in paragraph 1 of Article 287 of the 1982 United Nations Convention on the Law of the Sea. The parties to the dispute may so agree, whether or not they are also States Parties to the 1982 United Nations Convention on the Law of the Sea.
3. In the event an agreement to use one of the procedures listed in paragraph 1 of Article 287 of the 1982 United Nations Convention on the Law of the Sea is reached, the provisions set forth in Part XV of that Convention that are related to the chosen procedure would also apply, *mutatis mutandis*.
4. The twelve month period referred to in paragraph 2 may be extended for another twelve months by mutual consent of the parties concerned.
5. Notwithstanding paragraph 2, any State may, at the time it expresses its consent to be bound by this Protocol, notify the Secretary-General that, when it is a party to a dispute about the interpretation or application of article 3.1 or 3.2, its consent will be required before the dispute may be settled by means of the Arbitral Procedure set forth in Annex 3.

**ANNEX 3 TO 1996 PROTOCOL TO LONDON CONVENTION**

**ARBITRAL PROCEDURE**

**Article 1**

1. An Arbitral Tribunal (hereinafter referred to as the "Tribunal") shall be established upon the request of a contracting Party addressed to another Contracting Party in application of article 16 of this Protocol. The request for arbitration shall consist of a statement of the case together with any supporting documents.
2. the requesting Contracting Party shall inform the Secretary-General of:
  - 1 its request for arbitration; and
  - 2 the provisions of this Protocol the interpretation or application of which is, in its opinion, the subject of disagreement.
3. The Secretary-General shall transmit this information to all Contracting States.

**Article 2**

1. The Tribunal shall consist of a single arbitrator if so agreed between the parties to the dispute within 30 days from the date of receipt of the request for arbitration.
2. In the case of the death, disability or default of the arbitrator, the parties to a dispute may agree upon a replacement within 30 days of such death, disability or default.

**Article 3**

1. Where the parties to a dispute do not agree upon a Tribunal in accordance with article 2 of this Annex, the Tribunal shall consist of three members:
  - 1 one arbitrator nominated by each party to the dispute; and

- 2 a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.
2. If the Chairman of a Tribunal is not nominated within 30 days of nomination of the second arbitrator, the parties to a dispute shall, upon the request of one party, submit to the Secretary-General within a further period of 30 days an agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is or has been a national of one party to the dispute except with the consent of the other party to the dispute.
3. If one party to a dispute fails to nominate an arbitrator as provided in paragraph 1.1 within 60 days from the date of receipt of the request for arbitration, the other party may request the submission to the Secretary-General within a period of 30 days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The chairman shall then request the party which has not nominated an arbitrator to do so. If this party does not nominate an arbitrator within 15 days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.
4. In the case of the death, disability or default of an arbitrator, the party to the dispute who nominated him shall nominate a replacement within 30 days of such death, disability or default. If the party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with the provision of paragraphs 1.2 and 2 within 90 days of such death, disability or default.
5. A list of arbitrators shall be maintained by the Secretary-General and composed of qualified persons nominated by the Contracting Parties. Each Contracting Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

#### **Article 4**

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

#### **Article 5**

Each party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the parties.

#### **Article 6**

Any Contracting Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the parties to the dispute which have originally initiated the procedure, intervene in the arbitration procedure with the consent of the Tribunal and at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral argument on the matters giving rise to its intervention, in accordance with procedures established pursuant to article 7 of this Annex, but shall have no rights with respect to the composition of the Tribunal.

#### **Article 7**

A Tribunal established under the Provisions of this Annex shall decide its own rules of procedure.

#### **Article 8**

1. Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members. However, the absence or abstention of any member of the Tribunal who was nominated by a party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2. The parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal.

- 1 provide the Tribunal with all necessary documents and information; and
- 2 enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

3. The failure of a party to the dispute to comply with the provisions of paragraph 2 shall not preclude the Tribunal from reaching a decision and rendering an award.

**Article 9**

The Tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be communicated to the Secretary-General who shall inform the Contracting Parties. The parties to the dispute shall immediately comply with the award.

**SCHEDULE 18**

**FORM OF CERTIFICATE OF INSURANCE REGARDING CARRIAGE OF HNS**

**Certificate of Insurance or Other Financial Security in respect of Liability for Damage Caused by Hazardous and Noxious Substances (HNS)**

Issued in accordance with the provisions of article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

Name of ship	Distinctive number or letters	IMO ship identification number	Port of registry	Name and full address of the principal place of business of the owner

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

Type of security .....

Duration of security .....

Name and address of the insurer(s) and/or guarantor(s)

Name .....

Address .....

This certificate is valid until .....

Issued or certified by the government of .....

.....  
(Full designation of the State)

At ..... On .....  
(Place) (Date)

.....  
(Signature and title of issuing or certifying official)

Explanatory notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of security" must stipulate the date on which such security takes effect.
5. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

Section 200 and 201

**SCHEDULE 19**

**TEXTS OF CHAPTER III AND IV, ARTICLE 52 AND ANNEX II OF THE HNS CONVENTION**

**CHAPTER III - COMPENSATION BY THE INTERNATIONAL HAZARDOUS AND NOXIOUS SUBSTANCES FUND (HNS FUND)**

**Establishment of the HNS Fund**

**Article 13**

1. The International Hazardous and Noxious substances Fund (HNS Fund) is hereby established with the following aims:
  - (a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by chapter II is inadequate or not available; and
  - (b) to give effect to the related tasks set out in article 15.
2. The HNS Fund shall in each State Party be recognised as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each State Party shall recognise the Director as the legal representative of the HNS Fund.

**Compensation**

**Article 14**

1. For the purpose of fulfilling its function under article 13, paragraph 1 (a), the HNS Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of chapter II:
  - (a) because no liability for the damage arises under chapter II;
  - (b) because the owner liable for the damage under chapter II is financially incapable of meeting the obligations under this Convention in full and any financial security that may be provided under chapter II does not cover or is insufficient to satisfy the claims for compensation for damage; an owner being treated as financially incapable of meeting these obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under chapter II after having taken all reasonable steps to pursue the available legal remedies;
  - (c) because the damage exceeds the owner's liability under the terms of chapter II.
2. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise damage shall be treated as damage for the purposes of this article.

3. The HNS Fund shall incur no obligation under the preceding paragraphs if:
- (a) it proves that the damage resulted from an act of war, hostilities, civil war or insurrection or was caused by hazardous and noxious substances which had escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or
  - (b) the claimant cannot prove that there is a reasonable probability that the damage resulted from an incident involving one or more ships.
4. If the HNS Fund proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the HNS Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The HNS Fund shall in any event be exonerated to the extent that the owner may have been exonerated under article 7, paragraph 3. However, there shall be no such exoneration of the HNS Fund with regard to preventive measures.
5. (a) Except as otherwise provided in subparagraph (b), the aggregate amount of compensation payable by the HNS Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount and any amount of compensation actually paid under chapter II for damage within the scope of application of this Convention as defined in article 3 shall not exceed 250 million units of account.
- (b) The aggregate amount of compensation payable by the HNS Fund under this article for damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 250 million units of account.
- (c) Interest accrued on a fund constituted in accordance with article 9, paragraph 3, if any, shall not be taken into account for the Fund under this article.
- (d) The amounts mentioned in this article shall be converted into national currency on the basis of the value of that currency with reference to the Special Drawing Right on the date of the decision of the Assembly of the HNS Fund as to the first date of payment of compensation.
6. Where the amount of established claims against the HNS Fund exceeds the aggregate amount of compensation payable under paragraph 5, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants. Claims in respect of death or personal injury shall have priority over other claims, however, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with paragraph 5.
7. The Assembly of the HNS Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner has not constituted a fund in accordance with chapter II. In such cases paragraph 5 (d) applies accordingly.

### **Related tasks of the HNS Fund**

#### **Article 15**

For the purpose of fulfilling its function under article 13, paragraph 1 (a), the HNS Fund shall have the following tasks:

- (a) to consider the claims made against the HNS Fund;
- (b) to prepare an estimate in the form of a budget for each calendar year of:

Expenditure:

- (i) costs and expenses of the administration of the HNS Fund in the relevant year and any deficit from operations in the preceding years; and
- (ii) payments to be made by the HNS Fund in the relevant year;

Income:

- (iii) surplus funds from operations in preceding years, including any interest;



- (iv) initial contributions to be paid in the course for the year;
  - (v) annual contributions if required to balance the budget; and
  - (vi) any other income;
- (c) to use at the request of a State Party its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate damage arising from an incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention; and
- (d) to provide, on conditions laid down in the internal regulations, credit facilities with a view to the taking of preventive measures against damage arising from a particular incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention.

### **General provisions on contributions**

#### **Article 16**

1. The HNS Fund shall have a general account, which shall be divided into sectors.
2. The HNS Fund shall, subject to article 19, paragraphs 3 and 4, also have separate accounts in respect of:
  - (a) oil as defined in article 1, paragraph 5(a)(i) (oil account);
  - (b) liquefied natural gases of light hydrocarbons with methane as the main constituent (LNG) (LNG account); and
  - (c) liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents (LPG) (LPG account).
3. There shall be initial contributions and, as required, annual contributions to the HNS Fund.
4. Contributions to the HNS Fund shall be made into the general account in accordance with article 18, to separate accounts in accordance with article 19 and to either the general account or separate accounts in accordance with article 20 or article 21, paragraph 5. Subject to article 19, paragraph 6, the general account shall be available to compensate damage caused by hazardous and noxious substances covered by that account, and a separate account shall be available to compensate damage caused by a hazardous and noxious substance covered by that account.
5. For the purposes of article 18, article 19, paragraph 1(a)(i), paragraph 1 (a)(ii) and paragraph 1 (c), article 20 and article 21, paragraph 5, where the quantity of a given type of contributing cargo received in the territory of a State Party by any person in a calendar year when aggregated with the quantities of the same type of cargo received in the same State Party in that year by any associated person or persons exceeds the limit specified in the respective subparagraphs, such a person shall pay contributions in respect of the actual quantity received by that person notwithstanding that that quantity did not exceed the respective limit.
6. "Associated person" means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

### **General provisions on annual contributions**

#### **Article 17**

1. Annual contributions to the general account and to each separate account shall be levied only as required to make payments by the account in question.
2. Annual contributions payable pursuant to articles 18, 19 and article 21, paragraph 5 shall be determined by the Assembly and shall be calculated in accordance with those articles on the basis of the units of contributing cargo received or, in respect of cargoes referred to in article 19, paragraph (b), discharged during the preceding calendar year or such other year as the Assembly may decide.

3. The Assembly shall decide the total amount of annual contributions to be levied to the general account and to each separate account. Following that decision the Director shall, in respect of each State Party, calculate for each person liable to pay contributions in accordance with article 18, article 19, paragraph 1 and article 21, paragraph 5, the amount of that person's annual contribution to each account, on the basis of a fixed sum for each unit of contributing cargo reported in respect of the person during the preceding calendar year or such other year as the Assembly may decide. For the general account, the above-mentioned fixed sum per unit of contributing cargo for each sector shall be calculated pursuant to the regulations contained in Annex II to this Convention. For each separate account, the fixed sum per unit of contributing cargo referred to above shall be calculated by dividing the total annual contribution to be levied to that account by the total quantity of cargo contributing to that account.

4. The Assembly may also levy annual contributions for administrative costs and decide on the distribution of such costs between the sectors of the general account and the separate accounts.

5. The Assembly shall also decide on the distribution between the relevant accounts and sectors of amounts paid in compensation for damage caused by two or more substances which fall within different accounts or sectors, on the basis of an estimate of the extent to which each of the substances involved contributed to the damage.

#### **Annual contributions to the general account**

##### **Article 18**

1. Subject to article 16, paragraph 5, annual contributions to the general account shall be made in respect of each State Party by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of aggregate quantities exceeding 20,000 tonnes of contributing cargo, other than substances referred to in article 19, paragraph 1, which fall within the following sectors:

- (a) solid bulk materials referred to in article 1, paragraph 5(a) (vii);
- (b) substances referred to in paragraph 2; and
- (c) other substances.

2. Annual contributions shall also be payable to the general account by persons who would have been liable to pay contributions to a separate account in accordance with article 19, paragraph 1, had its operation not been postponed or suspended in accordance with article 19. Each separate account the operation of which has been postponed or suspended under article 19 shall form a separate sector within the general account.

#### **Annual contributions to separate accounts**

##### **Article 19**

1. Subject to article 16, paragraph 5, annual contributions to separate accounts shall be made in respect of each State Party:

- (a) in the case of the oil account,
  - (i) by any person who has received in that State in the preceding calendar year, or such other year as the Assembly may decide, total quantities exceeding 150,000 tonnes of contributing oil as defined in article 1, paragraph 3, of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, and who is or would be liable to pay contributions to the International Oil Pollution Compensation Fund in accordance with article 10 of that Convention; and
  - (ii) by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of total quantities exceeding 20,000 tonnes of other oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;

- (b) in the case of the LNG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State;
- (c) in the case of the LPG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, was the receiver in that State of total quantities exceeding 20,000 tonnes of LPG.
2. Subject to paragraph 3, the separate accounts referred to in paragraph 1 above shall become effective at the same time as the general account.
3. The initial operation of a separate account referred to in article 16, paragraph 2, shall be postponed until such time as the quantities of contributing cargo in respect of that account during the preceding calendar year, or such other year as the Assembly may decide, exceed the following levels:
- (a) 350 million tonnes of contributing cargo in respect of the oil account;
  - (b) 20 million tonnes of contributing cargo in respect of the LNG account; and
  - (c) 15 million tonnes of contributing cargo in respect of the LPG account.
4. The Assembly may suspend the operation of a separate account if:
- (a) the quantities of contributing cargo in respect of that account during the preceding calendar year fall below the respective level specified in paragraph 3; or
  - (b) when six months have elapsed from the date when the contributions were due, the total unpaid contributions to that account exceed 10% of the most recent levy to that account in accordance with paragraph 1.
5. The Assembly may reinstate the operation of a separate account which has been suspended in accordance with paragraph 4.
6. Any person who would be liable to pay contributions to a separate account the operation of which has been postponed in accordance with paragraph 3 or suspended in accordance with paragraph 4, shall pay into the general account the contributions due by that person in respect of that separate account. For the purpose of calculating future contributions, the postponed or suspended separate account shall form a new sector in the general account and shall be subject to the HNS points system defined in Annex II.

### **Initial contributions**

#### **Article 20**

1. In respect of each State Party, initial contributions shall be made of an amount which shall for each person liable to pay contributions in accordance with article 16, paragraph 5, articles 18, 19, and article 21, paragraph 5, be calculated on the basis of a fixed sum, equal for the general account and each separate account, for each unit of contributing cargo received or, in the case of LNG, discharged in that State, during the calendar year preceding that in which this Convention enters into force for that State.
2. The fixed sum and the units for the different sectors within the general account as well as for each separate account referred to in paragraph 1 shall be determined by the Assembly.
3. Initial contributions shall be paid within three months following the date on which the HNS Fund issues invoices in respect of each State Party to persons liable to pay contributions in accordance with paragraph 1.

### **Reports**

#### **Article 21**

1. Each State Party shall ensure that any person liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article appears on a list to be established and kept up to date by the Director in accordance with the provisions of this article.
2. For the purposes set out in paragraph 1, each State Party shall communicate to the Director, at a time and in the manner to be prescribed in the internal regulations of the HNS Fund, the name and address of any person who in respect of the State is liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article, as well as data on the relevant quantities of

contributing cargo for which such a person is liable to contribute in respect of the preceding calendar year.

3. For the purposes of ascertaining who are, at any given time, the persons liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article and of establishing, where applicable, the quantities of cargo to be taken into account for any such person when determining the amount of the contribution, the list shall be prima facie evidence of the facts stated therein.

4. Where a State Party does not fulfil its obligations to communicate to the Director the information referred to in paragraph 2 and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by a State Party.

5. In respect of contributing cargo carried from one port or terminal of a State Party to another port or terminal located in the same State and discharged there, States Parties shall have the option of submitting to the HNS Fund a report with an annual aggregate quantity for each account covering all receipts of contributing cargo, including any quantities in respect of which contributions are payable pursuant to article 16, paragraph 5. The State Party shall, at the time of reporting, either:

- (a) notify the HNS Fund that the State will pay the aggregate amount for each account in respect of the relevant year in one lump sum to the HNS Fund; or
- (b) instruct the HNS Fund to levy the aggregate amount for each account by invoicing individual receiver or, in the case of LNG, the title holder who discharges within the jurisdiction of that State Party, for the amount payable by each of them. These persons shall be identified in accordance with the national law of the State concerned.

#### **Non-payment of contributions**

##### **Article 22**

1. The amount of any contribution due under articles 18, 19, 20 or article 21, paragraph 5, and which is in arrears shall bear interest at a rate which shall be determined in accordance with the internal regulations of the HNS Fund, provided that different rates may be fixed for different circumstances.

2. Where a person who is liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5, does not fulfil the obligations in

respect of any such contribution or any part thereof and is in arrears, the Director shall take all appropriate action, including court action, against such a person on behalf of the HNS Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

#### **Optional liability of States Parties for the payment of contributions**

##### **Article 23**

1. Without prejudice to article 21, paragraph 5, a State Party may at the time when it deposits its instrument of ratification, acceptance, approval or accession or at any time thereafter declare that it assumes responsibility for obligations imposed by this Convention on any person liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5, in respect of hazardous and noxious substances received or discharged in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.

2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with article 46, it shall be deposited with the Secretary-General who shall after the entry into force of this Convention communicate the declaration to the Director.

3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.

4. A declaration made in accordance with this article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such a notification shall take effect three months after the Director's receipt thereof.

5. Any State which is bound by a declaration made under this article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

### **Organisation and administration**

#### **Article 24**

The HNS fund shall have an Assembly and a Secretariat headed by the Director.

#### **Assembly**

#### **Article 25**

The Assembly shall consist of all States Parties to this Convention.

#### **Article 26**

The functions of the Assembly shall be:

- (a) to elect at each regular session its President and two Vice-Presidents who shall hold office until the next regular session;
- (b) to determine its own rules of procedure, subject to the provisions of this Convention;
- (c) to develop, apply and keep under review internal and financial regulations relating to the aim of the HNS fund as described in article 13, paragraph 1(a), and the related tasks of the HNS fund listed in article 15;
- (d) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
- (e) to adopt the annual budget prepared in accordance with article 15(b);
- (f) to consider and approve as necessary any recommendation of the Director regarding the scope of definition of contributing cargo;
- (g) to appoint auditors and approve the accounts of the HNS Fund;
- (h) to approve settlements of claims against the HNS Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with article 14 and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of damage are compensated as promptly as possible;
- (i) to establish a Committee on Claims for Compensation with at least 7 and not more than 15 members and any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the States Parties are appropriately represented; the Rules of Procedure of the Assembly may be applied, mutatis mutandis, for the work of such subsidiary body;
- (j) to determine which States not party to this convention, which Associate Members of the Organization and which intergovernmental and international non-governmental organisations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;

- (k) to give instructions concerning the administration of the HNS Fund to the Director and subsidiary bodies;
- (l) to supervise the proper execution of this Convention and of its own decisions;
- (m) to review every five years the implementation of this Convention with particular reference to the performance of the system for the calculation of levies and the contribution mechanism for domestic trade; and
- (n) to perform such other functions as are allocated to it under this convention or are otherwise necessary for the proper operation of the HNS Fund.

## **CHAPTER IV -CLAIMS AND ACTIONS**

### **Limitation of actions**

#### **Article 37**

1. Rights to compensation under chapter II shall be extinguished unless an action is brought thereunder within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the owner.
2. Rights to compensation under chapter III shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to article 39, paragraph 7, within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage.
3. In no case, however, shall an action be brought later than ten years from the date of incident which caused the damage.
4. Where the incident consists of a series of occurrences, the ten-year period mentioned in paragraph 3 shall run from the date of the last of such occurrences.

### **Jurisdiction in respect of action against the owner**

#### **Article 38**

1. Where an incident has caused damage in the territory, including the territorial sea or in an area referred to in article 3 (b), of one or more States Parties, or preventive measures have been taken to prevent minimise damage in such territory including the territorial sea or in such area, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of any such States Parties.
2. Where an incident has caused damage exclusively outside the territory, including the territorial sea, of any State and either the conditions for application of this Convention set out in article 3(c) have been fulfilled or preventive measures to prevent or minimise such damage have been taken, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of:
  - (a) the State Party where the ship is registered or, in the case of an unregistered ship, the State Party whose flag the ship is entitled to fly; or
  - (b) the State Party where the owner has habitual residence or where the principal place of business of the owner is established; or
  - (c) the State Party where a fund has been constituted in accordance with article 9, paragraph 3.
3. Reasonable notice of any action taken under paragraph 1 or 2 shall be given to the defendant.
4. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.
5. After a fund under article 9 has been constituted by the owner or by the insurer or other person providing financial security in accordance with article 12, the courts of the State in which such fund is constituted shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

**Jurisdiction in respect of action against the HNS Fund or taken by the HNS Fund**

**Article 39**

1. Subject to the subsequent provisions of this article, any action against the HNS Fund for compensation under article 14 shall be brought only before a court having jurisdiction under article 38 in respect of actions against the owner who is liable for damage caused by the relevant incident or before a court in a State Party which would have been competent if an owner had been liable.
2. In the event that the ship carrying the hazardous or noxious substances which caused the damage has not been identified, the provisions of article 38, paragraph 1, shall apply mutatis mutandis to actions against the HNS Fund.
3. Each State Party shall ensure that its courts have jurisdiction to entertain such actions against the HNS fund as are referred to in paragraph 1.
4. Where an action for compensation for damage has been brought before a court against the owner or the owner's guarantor, such court shall have exclusive jurisdiction over any action against the HNS Fund for compensation under the provisions of article 14 in respect of the same damage.
5. Each State Party shall ensure that the HNS Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with this Convention before a competent court of that State against the owner or the owner's guarantor.
6. Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.
7. Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS fund even if the HNS fund has not actually intervened in the proceedings.

**Recognition and enforcement**

**Article 40**

1. Any judgement given by a court with jurisdiction in accordance with article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except:
  - (a) where the judgement was obtained by fraud; or
  - (b) where the defendant was not given reasonable notice and a fair opportunity to present the case.
2. A judgement recognised under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
3. Subject to any decision concerning the distribution referred to in article 14, paragraph 6, any judgement given against the HNS Fund by a court having jurisdiction in accordance with article 39, paragraphs 1 and 3, shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognised and enforceable in each State Party.

## **Subrogation and recourse**

### **Article 41**

1. The HNS Fund shall, in respect of any amount of compensation for damage paid by the HNS Fund in accordance with article 14, paragraph 1, acquire by subrogation the rights that the person so compensated may enjoy against the owner or the owner's guarantor.
2. Nothing in this Convention shall prejudice any rights of recourse or subrogation of the HNS Fund against any person, including persons referred to in article 7, paragraph 2(d), other than those referred to in the previous paragraph, in so far as they can limit their liability. In any event the right of the HNS Fund to subrogation against such person shall not be less favourable than that of an insurer of the person to whom compensation has been paid.
3. Without prejudice to any other rights of subrogation or recourse against the HNS Fund which may exist, a State Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensation would have enjoyed under this Convention.

## **Supersession clause**

### **Article 42**

This Convention shall supersede any convention in force or open for signature, ratification or accession at the date on which this convention is opened for signature, but only to the extent that such convention would be in conflict with it; however, nothing in this article shall affect the obligations of States Parties to States not party to this Convention arising under such convention.

## **EXTRACT FROM CHAPTER VI – FINAL CLAUSES**

### **Winding up of the HNS Fund**

#### **Article 52**

1. If this Convention ceases to be in force, the HNS Fund shall nevertheless:
  - (a) meet its obligations in respect of any incident occurring before this Convention ceased to be in force; and
  - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under (a), including expenses for the administration of the HNS Fund necessary for this purpose.
2. The Assembly shall take all appropriate measures to complete the winding up of the HNS Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the HNS Fund.
3. For the purposes of this article the HNS Fund shall remain a legal person.

## **ANNEX II TO THE HNS FUND**

### **Regulations for the calculation of annual contributions to the general account**

#### **Regulation 1**

1. The fixed sum referred to in article 17, paragraph 3, shall be determined for each sector in accordance with these regulations.
2. When it is necessary to calculate contributions for more than one sector of the general account, a separate fixed sum per unit of contributing cargo shall be calculated for each of the following sectors as may be required:
  - (a) solid bulk materials referred to in article 1, paragraph 5 (a) (vii);
  - (b) oil, if the operation of the oil account is postponed or suspended;
  - (c) LNG, if the operation of the LNG account is postponed or suspended;
  - (d) LPG, if the operation of the LPG account is postponed or suspended;
  - (e) other substances.



**Regulation 2**

1. For each sector the fixed sum per unit of contributing cargo shall be the product of the levy per HNS point and the sector factor for that sector.
2. The levy per HNS point shall be the total annual contributions to be levied to the general account divided by the total HNS points for all sectors.
3. The total HNS points for each sector shall be the product of the total volume, measured in metric tonnes, of contributing cargo for that sector and the corresponding sector factor.
4. A sector factor shall be calculated as the weighted arithmetic average of the claims/volume ratio for that sector for the relevant year and the previous nine years, according to this regulation.
5. Except as provided in paragraph 6, the claims/volume ratio for each of these years shall be calculated as follows:
  - (a) established claims, measured in units of account converted from the claim currency using the rate applicable on the date of the incident in question, for damage caused by substances in respect of which contributions to the HNS Fund are due for the relevant year; divided by
  - (b) the volume of contributing cargo corresponding to the relevant year.
6. In cases where the information required in paragraph 5(a) and (b) is not available, the following values shall be used for the claims/volume ratio for each of the missing years;
  - (a) solid bulk materials referred to in article 1, paragraph 5(a)(vii) 0
  - (b) oil, if the operation of the oil account is postponed 0
  - (c) LNG, if the operation of the LNG account is postponed 0
  - (d) LPG, if the operation of the LPG account is postponed 0
  - (e) other substances 0.0001
7. The arithmetic average of the 10 years shall be weighted on a decreasing linear scale, so that the ratio of the relevant year shall have a weight of 10, the year prior to the relevant year shall have a weight of 9, the next preceding year shall have a weight of 8, and so on, until the tenth year has a weight of 1.
8. If the operation of a separate account has been suspended, the relevant sector factor shall be calculated in accordance with those provisions of this regulation which the Assembly shall consider appropriate.

Section 201

**SCHEDULE 20**

**TEXT OF ARTICLE 48 OF THE HNS CONVENTION  
Amendment of Limits**

**Article 48**

1. Without prejudice to the provisions of article 47, the special procedure in this article shall apply solely for the purpose of amending the limits set out in article 9, paragraph 1 and article 14, paragraph 5.
2. Upon the request of at least one half, but in no case less than six, of the States Parties, any proposal to amend the limits specified in article 9, paragraph 1, and article 14, paragraph 5, shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
3. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization (the Legal Committee) for consideration at a date at least six months after the date of its circulation.
4. All Contracting States, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
5. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided in paragraph 4, on condition that at least one half of the Contracting States shall be present at the time of voting.

6. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits established in article 9, paragraph 1, and those in article 14, paragraph 5.
7. (a) No amendment of the limits under this article may be considered less than five years from the date this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this article.
- (b) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention increased by six per cent per year calculated on a compound basis from the date on which this Convention was opened for signature.
- (c) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention multiplied by three.
8. Any amendment adopted in accordance with paragraph 5 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period no less than one-fourth of the States which were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.
9. An amendment deemed to have been accepted in accordance with paragraph 8 shall enter into force eighteen months after its acceptance.
10. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with article 49, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.
11. When an amendment has been adopted but the 18 month period for its acceptance has not yet expired, a State which becomes a contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 8. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State, if later.

Passed by the Legislative Assembly the 10th day of January, 2002.

JULIANNA O'CONNOR-CONNOLLY

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly