

Maritime Pollution Bill, 2015

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A
BILL

ENTITLED

MARITIME POLLUTION ACT, 2015

AN ACT to provide for the prevention, regulation and control of maritime pollution within the territorial waters of Ghana and other maritime zones under the control of Ghana and for other related matters.

PASSED by Parliament and assented to by the President:

PART ONE

APPLICATION AND RESPONSIBILITIES OF AUTHORITY

Application

1. This Act

(a) applies to

- (i) a Ghanaian ship wherever it is,
- (ii) a non-Ghanaian ship while it is in a port, offshore terminal or place within the territorial waters of Ghana and other maritime zones as provided in the Maritime Zones Delimitation Act, 1986 (PNDC Law 159),
- (iii) an offshore installation,

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- (iv) a master and seamen employed in a ship referred to in subparagraphs (i) and (ii), and
- (v) to the Republic;
- (b) does not apply to
 - (i) a ship that belongs to the Government which is engaged in government non-commercial service; or
 - (ii) a warship, naval auxiliary or other ship owned or operated by a State and used for the time being only on government non-commercial service.

Regulatory Authority

2. (1) The Ghana Maritime Authority is the regulatory authority for this Act.

(2) For the purposes of subsection (1), the Ghana Maritime Authority shall collaborate with the Environmental Protection Agency and other relevant agencies.

Notification of imminent or actual damage

3. Where the Authority becomes aware of imminent danger or damage by pollution to the marine environment, it shall immediately notify the government of other States likely to be affected by the damage, as well as the Organisation.

Measures related to seaworthiness of vessels to prevent pollution

4. (1) Subject to subsection (2), where the Authority ascertains that a vessel within a port or offshore terminal in Ghana

- (a) is in contravention of an enactment that relates to seaworthiness of vessels in this country, or
- (b) poses a threat to the marine environment,

the Authority shall have the power to prevent the vessel from sailing.

(2) The Authority may, where it considers it appropriate, permit the offending vessel to proceed to the nearest repair yard.

Contravention by vessels within the territorial sea or exclusive economic zone

5. (1) Where there are reasonable grounds to suspect that a vessel navigating in the territorial sea is in contravention of this Act, the Authority may

- (a) without prejudice to the vessel's right of innocent passage under UNCLOS, undertake physical inspection of the vessel for matters related to the contravention, and

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- (b) where there is sufficient evidence, institute legal proceedings including detention of the vessel, in accordance with this Act.

(2) Where there are reasonable grounds to suspect that a vessel in Ghana's exclusive economic zone is in contravention of this Act, the Authority may require the vessel to give information on

- (a) its identity and port of registry,
- (b) its last and its next port of call, and
- (c) any other relevant information required to establish whether a contravention has occurred.

(3) Ghanaian ships shall comply with requests from the relevant authorities of countries where MARPOL is in force to supply the information referred to in subsection (2).

(4) Where there are reasonable grounds to suspect that a contravention under subsection (2) has resulted in a substantial discharge which has caused or is threatening to cause significant pollution of the marine environment, the Authority may undertake physical inspection of the vessel for matters related to the contravention if

- (a) the vessel has refused to give information, or
- (b) the information supplied by the vessel is manifestly at variance with the evident factual situation, and
- (c) the circumstances of the case justify the inspection.

(5) Where there is clear evidence that a contravention under subsection (2) has resulted in a discharge which

- (a) is threatening to cause damage to the coastline or related interests of Ghana, or
- (b) has caused damage to any resource of Ghana

the Authority may institute legal proceedings against the offending vessel including detention of the vessel.

Monitoring of risks or effects of pollution under MARPOL

6. The Authority, in collaboration with the Environmental Protection Agency and other relevant agencies shall, in relation to maritime pollution activities within the purview of the Organisation

- (a) directly or through the Organisation, observe, measure, evaluate, and analyse by scientific methods recognised by the Organisation, the risks or effects of pollution of the marine environment; and

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- (b) in particular, keep under surveillance the effects of any activities which it permits or engages in for the purpose of determining whether these activities are likely to pollute the marine environment.

Provision of reports

7. The Authority shall provide written reports of the results obtained under section 6 at appropriate intervals to

- (a) the Organisation;
- (b) the Environmental Protection Agency; and
- (c) other relevant Agencies.

Assessment of potential effects of activities

8. (1) The Authority shall assess planned activities within the purview of the Organisation under the jurisdiction of the country which are likely to cause pollution.

(2) Despite subsection (1), a relevant agency may within its mandate if necessary, assess planned activities under the jurisdiction of the country which are likely to cause pollution.

(3) The relevant agency shall before carrying out an assessment under subsection (2), notify the Authority in writing of the assessment.

(4) The relevant agency shall communicate a written report of the results of the assessment to

- (a) the Authority, and
- (b) other relevant agencies.

(5) Where the Authority after consultation with the relevant agencies has reasonable grounds to believe that planned activities under the jurisdiction or control of Ghana may cause substantial pollution of or significant and harmful changes to the marine environment, the Authority, shall

- (a) cause to be assessed the potential effects of the activities within its mandate on the marine environment; and
- (b) communicate reports of the results of the assessment in the manner provided in section 7.

PART TWO

INTERVENTION ON THE HIGH SEAS

Minister to take measures regarding intervention on the high seas

9. (1) Subject to subsection (2), the Minister shall, on the advice of the Authority, take a decision on the measures on the high seas that are 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 on the occurrence of a maritime casualty or acts related to a maritime casualty likely to result in major harmful consequences.

(2) A measure shall not be taken under this Part against

(a) a Ghana government ship which is on government non-commercial service; and

(b) a warship or other ship owned or operated by another State and which is used only for government non-commercial service.

(3) Where the Minister takes action with regard to a substance other than oil, the burden of proof that the substance under the circumstances present at the time of intervention could reasonably pose a grave and imminent danger analogous to that posed by any of the substances enumerated in the First Schedule, is on the Minister.

Duties of the Minister

10. (1) The Minister shall before taking a measure under section 9 consult other States affected by the maritime casualty, particularly, the State where the vessel is registered.

(2) The Minister shall give notice of a measure proposed to be taken under section 9 to any person, organisation, authority or body known to have an interest which can reasonably be expected to be affected by the measure and shall take into account their views if any.

(3) The Minister may, prior to taking a measure, consult with independent experts chosen from a list maintained by the International Maritime Organisation.

(4) Despite subsections (1) to (3), the Minister in cases of extreme urgency requiring immediate action may take measures that are necessary without giving prior notice or consulting any person required to be given notice or consulted.

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- (5) The Minister in taking a measure shall
- (a) ensure that
 - (i) risk to human life is avoided, and
 - (ii) any person in distress is given assistance which that person may need, and
 - (b) in appropriate cases facilitate the repatriation of the crew of a ship.

(6) The Minister shall, in taking a measure pursuant to section 9, notify without delay a State, an individual or a company responsible for the management or ownership of the vessel and the Secretary-General of the Organisation.

Nomination of experts

11. The Minister may submit nominations to be put on the list of experts referred to in section 10 (3).

Limitations on measures by Minister

12. (1) Measures taken by the Minister in accordance with section 9 shall

- (a) be proportionate to the actual damage or threat of damage to Ghana,
- (b) not go beyond what is reasonably necessary to prevent, mitigate or eliminate the danger referred to in section 9 and cease as soon as that has been achieved, and
- (c) not interfere with the rights and interest of the State where the ship is registered, a third State and any entity concerned unless with cause to mitigate or eliminate the danger to the coastline or related interests from pollution.

(2) In considering whether the measures are proportionate to the damage, the Minister shall take into account

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

Compensation

13. A person who suffers damage as a result of a measure taken by the Minister which is in excess of what is reasonably necessary to prevent, mitigate or eliminate the danger of pollution is entitled to compensation equivalent to the extent of the damage.

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Rights preserved

14. Except as specifically provided, nothing in this Part shall
- (a) limit the effect of any applicable right, duty, privilege or immunity, or
 - (b) deprive any State Party to the Convention or any interested entity of any remedy otherwise applicable.

Dispute settlement

15. A dispute between the Republic and a State Party to the Convention as to

- (a) whether a measure taken under section 9 was in contravention of the Convention;
 - (b) whether compensation is payable under section 13; or
 - (c) the amount of compensation
- shall
- (d) if there is no settlement by negotiation between the Republic and the State Party involved or any other claimant and if the parties to the dispute do not otherwise agree, be submitted on request of any of the parties to conciliation; or
 - (e) if conciliation does not succeed, be referred to arbitration as set out in the Second Schedule despite the non-exhaustion of other remedies under the laws of Ghana.

PART THREE

PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER AT SEA

Application of Part Three

16. (1) This Part applies to
- (a) the sea and the internal waters of Ghana;
 - (b) a vessel or aircraft which is registered in Ghana or is otherwise entitled to fly the flag of Ghana;
 - (c) a vessel or aircraft which loads in the territory of Ghana waste which is to be dumped or incinerated at sea;
 - (d) a vessel, aircraft, platform or other man-made structure believed to be engaged in dumping or incineration at sea in areas within which Ghana exercises jurisdiction in accordance with international law; and
 - (e) a Ghana Government ship.

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- (2) This Part does not apply to
- (a) the disposal or storage of wastes or other matter directly arising from, or related to the exploration, exploitation and associated offshore processing of seabed mineral resources; and
 - (b) a vessel or aircraft entitled to sovereign immunity under international law.

(3) The Agency shall advise the Director-General on the application of this Part to the internal waters of Ghana including the type and nature of the materials dumped in those waters and the Director-General shall communicate the information provided to the Organisation.

Administration of Part Three

17. In administering this Part, the Authority shall in collaboration with the relevant agency, apply a precautionary approach to environmental protection from dumping of waste or other matter by adopting appropriate prevention measures where there is reason to believe that waste introduced into the marine environment is likely to cause harm even where there is no conclusive evidence to prove a causal relation between inputs and effects.

Persons responsible for environmental matters to take more stringent measures

18. The Authority in collaboration with other relevant agencies may adopt more stringent measures than are provided for in this Part as regards the prevention, reduction, and where practicable, elimination of pollution in accordance with this Act.

Prohibition on dumping of waste

19. The dumping of waste is prohibited except it is in accordance with this Part.

Dumping permits

20. (1) The dumping of waste or other matter listed in the Third Schedule may be permitted subject to a permit issued by the Authority.

(2) The Authority may issue a permit in respect of waste intended for dumping or as provided for in section 26 (2) for incineration at sea if the waste is

- (a) loaded in Ghana, or

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(b) loaded on a vessel or aircraft registered in Ghana or flying a Ghanaian flag when the loading occurs in the territory of a State which is not a Party to the Convention.

(3) In issuing a permit, the Authority shall impose the conditions set out in the Third Schedule and may impose additional criteria, measures and requirements as the Authority considers relevant.

(4) The Authority shall not issue a dumping permit where an environmentally preferable alternative is available.

Obligations of authorised person

21. A person who is authorised to engage in dumping or incineration of waste at sea shall

- (a) bear the cost of meeting the pollution prevention and control requirements for the authorised activity and shall have regard to the public interest; and
- (b) not cause damage or do anything that is likely to cause damage to the environment or transform one type of pollution into another.

Duty to notify Organisation

22. Where the dumping of a waste or other matter listed in the Third Schedule is permitted, the Authority shall notify the Organisation.

Prohibition of incineration at sea

23. Except as provided in section 20(2) the incineration at sea of waste or other matter is prohibited.

Prohibition of export of waste

24. The export of waste or other matter to other countries for dumping or incineration at sea is prohibited.

Exceptions in cases of force majeure

25. (1) Sections 19 and 23 do not apply to circumstances where it is necessary to secure the safety of human life or of a vessel, aircraft, offshore installation or other man-made structure at sea in a case,

- (a) of a force majeure, or
- (b) which constitutes a danger to human life or a real threat to a vessel, aircraft, offshore installation or other man-made structure at sea,

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where dumping or incineration at sea appears to be the only way of averting the threat, and where there is a probability that the damage caused by the dumping or incineration at sea will be less than the damage that would otherwise be caused under the circumstances.

(2) Dumping or incineration at sea under subsection (1) shall be conducted in a way that minimises the likelihood of damage to human or marine life.

(3) The Authority shall communicate the details of any dumping or incineration at sea carried out under this section as soon as practicable to the Organisation.

Exceptions in case of other emergencies

26. (1) Sections 19 and 23 do not apply in a case of emergency which poses a serious threat to human health, safety, or the marine environment and which admits of no other feasible solution.

(2) In a case of emergency under subsection (1)

(a) the Authority may issue a permit that exempts the permit holder from the application of sections 19 and 23 after consulting any other relevant agencies and any other country that is likely to be affected; and

(b) the Authority shall inform the Organisation.

(3) The Organisation shall make recommendations on the matters specified under the section.

(4) The recommendations of the Organisation shall be implemented taking into account the time within which action needs to be taken and damage to the marine environment can be avoided.

(5) The Authority shall inform the Organisation of any action taken under subsection (4).

Offences

27. A person who contravenes section 19, 23 or 24 commits an offence and is liable on summary conviction to a fine of not less than three thousand penalty units and not more than fifteen thousand penalty units or to a term of imprisonment of not more than ten years or to both.

Record keeping and reporting

28. (1) The Authority shall

(a) keep records of the nature and quantity of any waste or other matter for which a dumping permit has been issued

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or incineration has been permitted and where practicable, the quantity actually dumped, the location, time and method of dumping; and

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

(2) The Authority shall communicate where appropriate to other State Parties to the Convention

- (a) the records 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-General shall report that information to the Organisation.

(3) The communication under subsection (2) (a) shall be on an annual basis and that under subsection (2) (b) and (c) shall be on a quarterly basis.

Co-operation regarding enforcement

29. The Authority shall co-operate with other relevant agencies 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 and settlement of dispute

30. (1) The legal and equitable principles, applicable under the law related 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 dumping or incineration at sea.

(2) In the event of a dispute between Ghana and another State Party to the Convention, the provisions of Article 16 and Annex 3 of the Convention as set out in the Fourth Schedule shall apply with regard to the settlement of the dispute.

Interpretation

31. In this Part, unless the context otherwise requires,
“Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972;
“dumping” means
- (a) any deliberate disposal into the sea of
 - (i) wastes or other matter from vessels, aircraft, offshore installation or other man-made structures at sea; or
 - (ii) vessels, aircraft, offshore installation, storage facility or other man-made structures at sea,
 - (b) any storage of wastes or other matter in the seabed and subsoil of the sea from vessels, aircraft, offshore installation, storage facility or other man-made structures at sea; and
 - (c) any abandonment or toppling at the site of offshore installations, storage facilities or other man-made structures at sea, for the sole purpose of deliberate disposal other than
 - (i) the disposal into the sea of wastes or other matter incidental to, or derived from the normal operation of vessels, aircraft, offshore installation, storage facilities or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, offshore installation, storage facilities or other man-made structures at sea, operating for the purpose of disposal of the matter or derived from the treatment of the wastes on the vessels, aircraft, offshore installation, storage facilities or other man-made structures;
 - (ii) placement of matter for a purpose other than the mere disposal of the matter, if the placement is not contrary to this Part; and
 - (iii) abandonment at sea of cables, pipelines and marine research devices placed for a purpose other than the mere disposal of the cables, pipelines and marine research devices;
- “incineration at sea” means the combustion on board a vessel, offshore installation, storage facility or other man-made

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structures at sea of waste for the purpose of their deliberate disposal by thermal destruction other than the incineration of wastes or other matter on board a vessel, offshore installation, storage facility or other man-made structure at sea if the wastes or other matter were generated during the normal operation of that vessel, offshore installation, storage facility or other man-made structure at sea; and “permit” means permission granted in advance and in accordance with the relevant measures adopted in accordance with sections 21, 22 and 28.

PART FOUR

PREVENTION OF POLLUTION FROM SHIPS

CHAPTER ONE

GENERAL PROVISIONS

Scope and application of Chapter One of Part Four

32. (1) Unless otherwise specified, this Part applies to
- (a) Ghanaian ships, and
 - (b) other ships operating within the internal waters, territorial sea or exclusive economic zone of Ghana.
- (2) This Part does not apply to
- (a) a ship that belongs to the Government which is engaged in government non-commercial service, or
 - (b) a warship, naval auxiliary or other ship owned or operated by a State and used for the time being only on government non-commercial service.

Contraventions

33. (1) Where the Authority is informed of a contravention of a provision on pollution from a ship and is satisfied that sufficient evidence is available for legal proceedings to be instituted against the person responsible for the contravention or for any sanctions to be imposed on that person, the Authority shall cause the legal proceedings to be instituted or the sanctions to be imposed.

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(2) In respect of a ship other than a Ghanaian ship, the Authority may furnish the government of the State where the ship is registered with information and evidence in its possession on the contravention.

(3) Where information and evidence is received by the Authority from the government of a State where MARPOL is in force in respect of a contravention by a Ghanaian ship, the Authority shall promptly inform the government and the Organisation of the action taken by the Authority.

(4) Where the Authority has reason to believe that a ship which proposes to enter a Ghanaian port or an offshore terminal is not in compliance with the requirements of this Part and the Authority is satisfied that the ship presents a threat of harm to the marine environment, the Authority may deny entry of that ship to any Ghanaian port or offshore terminal.

(5) Where a ship to which this Part applies is suspected of being in contravention of the requirements of those sections the ship is liable to be detained.

Certificates and special rules on inspection of ships

34. (1) Subject to subsection (2), a certificate issued in accordance with the provisions of MARPOL by or under the authority of a State where MARPOL is in force shall be accepted by the Authority and be regarded for the purposes of this Part as having the same validity as a corresponding certificate issued under this Part.

(2) A ship which holds the certificate is subject to inspection by officers duly authorised by the Authority for that purpose while in a port or offshore terminal of Ghana.

(3) An inspection under subsection (2) shall be limited to verification that there is on board a valid certificate, unless, there are clear grounds to believe that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate.

(4) Where the ship does not carry a valid certificate, the Authority subject to subsection (5), shall cause the ship to be detained and prevent the ship from sailing until the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(5) The Authority may grant a ship subject to a detention order under subsection (4), permission to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard.

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(6) Where a ship which is registered in a country where MARPOL is in force, is found not to be in compliance with this Part, the Authority may consult the government of the State concerned before denying the ship entry to a Ghanaian port or offshore terminal or taking any other action against the ship.

(7) Where the Authority denies entry to, or takes any action against a ship under subsection (6) the Authority shall immediately inform the consular or diplomatic representative of the State concerned, or if that is not possible, the government of that State.

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

(9) Despite subsection (1) and without limiting the effect of any specific provisions related to control over operational procedures which may be contained in Regulations made under the Shipping Act or contained elsewhere in these sections, an inspection under subsection (3), may include an investigation of an 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.

(10) Where an investigation under subsection (9) reveals any deficiencies, the Authority shall take steps that are necessary to ensure that the ship does not sail until the situation has been rectified in accordance with the requirements of this Part.

(11) An inspection under this Part shall be carried out in accordance with the Ghana Shipping Act, 2003 (Act 645).

Detection of contraventions and enforcement of this Part

35. (1) The Authority shall co-operate with governments of countries where MARPOL is in force in the detection of contraventions and enforcement of this Part and use

- (a) appropriate and practicable means as approved by the Organisation for the detection of contraventions and environmental monitoring, and
- (b) adequate procedures for reporting and accumulation of evidence of enforcement.

(2) A ship to which this Part applies may be subject to inspection in a port or offshore terminal of Ghana by officers appointed or authorised by the Authority for the purpose of verifying whether the ship has discharged a harmful substance in contravention of this Part.

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(3) Where an inspection indicates a contravention by a ship registered in a country where MARPOL is in force, the Authority shall forward a report to the government of the State concerned for appropriate action to be taken.

(4) Where it is alleged that a ship registered in a country where MARPOL is in force has discharged a harmful substance or effluent containing a harmful substance in contravention of this Part, the Authority shall furnish the government of the State concerned, with evidence of the alleged contravention, and if it is practicable, notify the master of the ship concerned.

(5) Where the Authority receives from a State where MARPOL is in force evidence in respect of a Ghanaian ship, the Authority may request the government of that State to provide further evidence of the alleged contravention.

(6) Where the Authority is satisfied that there is sufficient evidence to enable proceedings to be brought in respect of the alleged contravention, the Authority shall

- (a) cause the proceedings to be taken as soon as possible, and
- (b) promptly inform the government of the State which has reported the alleged contravention and the Organisation of the action taken.

(7) Where the government of a State where MARPOL is in force provides sufficient evidence that a ship to which MARPOL applies has discharged a harmful substance, or effluent containing a substance in any place and requests an investigation, the Authority

- (a) may cause the ship to be inspected when the ship enters a port or offshore terminal of Ghana, and
- (b) shall send the report of the investigation to the government of the State where the ship is registered for the appropriate action to be taken under MARPOL.

Undue delay to ships

36. (1) The Authority shall take necessary measures to avoid undue detention or delay of a ship under sections 33, 34 and 35.

(2) A ship that is unduly detained or delayed under sections 33, 34 and 35 is entitled to compensation for any loss or damage suffered.

Reports on incidents involving harmful substances

37. (1) The master or other person in charge of a ship shall report to the Authority without delay and in accordance with this section any incident that involves

- (a) a discharge or probable discharge from a ship of
 - (i) oil or noxious liquid substances above the permitted level for the purpose of securing the safety of a ship or saving life at sea or for any other reason; or
 - (ii) harmful substances in packaged form whether in freight containers, portable tanks, road and rail vehicles and ship borne barges or in any other form of package;
- (b) damage or failure or breakdown of a ship of fifteen metres in length or more arising from collision, grounding, fire, explosion, structural failure, flooding, cargo shifting or any other cause;
- (c) the impairment of the safety of navigation, arising from the failure or breakdown of steering gear, propulsion plant, electrical generating system, essential shipborne navigational aids; or
- (d) 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 Act.

(2) The report shall be given priority and communicated by the fastest channels available to the nearest coastal State.

(3) Where the report required under subsection (2) is

- (a) not submitted because the ship has been abandoned; or
- (b) submitted but is incomplete and the ship has been abandoned

the owner or charterer or manager or operator of the ship, or their agent shall, assume the obligations of the master under this section.

(4) The report shall among others contain

- (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.

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- (5) The Authority shall
- (a) ensure that an appropriate officer or agency receives and processes reports on incidents;
 - (b) on receipt, relay the report without delay to the government of the State where the ship involved is registered and to the government of any other States, where MARPOL is in force, which may be concerned; and
 - (c) give to the Organisation a notice containing complete details of the measures taken under paragraph (a) for circulation to member States of the Organisation and other States where MARPOL is in force.
- (6) A person obliged to send a report under this section shall
- (a) supplement the initial report as necessary and provide information concerning further developments; and
 - (b) comply as fully as possible with requests from affected States where MARPOL is in force for additional information.
- (7) A person who fails to submit a report as required by this section shall pay to the Authority an administrative penalty of five hundred penalty units.
- (8) The Minister may, by legislative instrument, make Regulations for the procedures to be followed in reporting an incident based on guidelines developed by the Organisation.
- (9) For the purposes of this section,
- “harmful substances” means the substances which are identified as marine pollutants in the International Maritime Dangerous Goods Code and comprises among others empty packages which have been used previously for the carriage of harmful substances unless adequate precautions have been taken to ensure that they do not contain any residue that is harmful to the marine environment; and
 - “noxious liquid substance” means any substance referred to in the Eighth Schedule or provisionally assessed under section 81 as falling into category X, Y or Z as provided in section 79;
 - “oil” means petroleum in any form and comprises among others crude oil, fuel oil, sludge, oil refuse and refined products other than petrochemicals which are subject to Chapter Three of this Part and the substances listed in the Fifth Schedule;

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“packaged form” means the forms of containment specified for harmful substances in the International Maritime Dangerous Goods Code.

(10) For the purpose of this Part, “ship” means a vessel of any type whatsoever operating in the marine environment and comprises among others pleasure vessels, hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

Communication of information

38. The Authority shall communicate to the Organisation

- (a) the texts of this Part and any subsidiary legislation made to prevent pollution from a ship;
- (b) a list of nominated surveyors or recognised organisations authorised to act on behalf of the Authority in the administration of matters relating to the design, construction, equipment, and operation of a ship carrying harmful substances in accordance with this Part for circulation to countries where MARPOL is in force for the information of their officers;
- (c) the specific responsibilities and conditions of the authority delegated to a nominated surveyor or recognised organisation;
- (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 which show the results of the application of this Part; and
- (g) an annual statistical report of penalties actually imposed for violations of this Part in a form standardised by the Organisation.

Incident involving Ghanaian ship

39. (1) The Authority shall investigate any incident that involves a Ghanaian ship to which this Part applies if the casualty produces a major deleterious effect on the marine environment.

(2) The Authority shall provide the Organisation with information concerning the findings of the investigation referred to in subsection (1) if the Authority believes that the information will assist in determining what changes to MARPOL might be desirable.

Technical co-operation

40. The Authority may, in pursuit of technical co-operation, enter into agreements with international organisations and other countries.

Dispute settlement

41. (1) Any dispute that arises between Ghana and any other country where MARPOL is in force may, unless the parties decide otherwise, be submitted to arbitration.

(2) The arbitration procedure shall be in accordance with the Twenty-First Schedule.

CHAPTER TWO

PREVENTION OF POLLUTION BY OIL

Application of Chapter Two of Part Four

42. (1) Unless otherwise provided, the provisions of this Chapter apply to all Ghanaian ships and other ships in Ghana's maritime jurisdiction.

(2) In ships other than oil tankers fitted with cargo spaces which are constructed and utilised to carry oil in bulk of an aggregated capacity of two hundred cubic metres or more, sections 58 and 59, sections 60 to 63 and section 71 and Regulations relating to the matters referred to in subparagraphs (xvii), (xix) and (xxiv) of section 249 shall apply to the construction and operation of those spaces.

(3) Where a cargo subject to Chapter Three of this Part is carried in a cargo space of an oil tanker, the appropriate requirements of Chapter 3 of this Part are to apply.

(4) The Regulations made under section 249 do not apply to oil tankers carrying asphalt or other products which are subject to the provisions of this Part where the tankers through their physical properties inhibit effective product and water separation and monitoring and the control of discharge under section 58 is effected by the retention of residues on board and all contaminated washings are discharged into reception facilities.

(5) A hydro foil, air-cushion vehicle or other new type of vessel such as near-surface craft and submarine craft which have constructional features which are rendered unreasonable or impracticable by the application of the provisions of this Part and related Regulations made under section 249 relating to construction and equipment may be

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exempted by the Authority from those provisions if the construction and equipment of that ship provides equivalent protection against pollution by oil, having regard to the service for which it is intended.

(6) Particulars of the exemption referred to in subsection (4) shall be indicated in the International Oil Pollution Prevention Certificate.

(7) Where the Authority allows an exemption, the Authority shall as soon as possible, but not more than ninety days after the grant of the exemption communicate to the Organisation particulars of the exemption and the reasons for the exemption.

Equivalents

43. (1) Subject to subsection (2), the Authority may allow any fitting, material, appliance or apparatus to be used as an alternative to that required by this Part and that specified in MARPOL resolution A.393 (X), if the fitting, material, appliance or apparatus is at least as effective as that required by this Part.

(2) The Authority shall not allow another operational method for the control of discharge of oil to be substituted for the design and construction features which are provided for in this Part.

(3) Where the Authority allows an alternative under subsection (1), the Authority shall communicate to the Organisation for circulation to countries where MARPOL is in force, particulars of the alternative allowed for information and appropriate action, if any.

(4) Where the Authority is informed of an alternative allowed by a country where MARPOL is in force, and the Authority has an objection, the Authority shall communicate the objection to the Organisation, and to other concerned countries where MARPOL is in force within one year after the information has been received.

Surveys

44. (1) A Ghanaian oil tanker of one hundred and fifty gross tonnage or more and any other Ghanaian ship of four hundred gross tonnage or more shall be surveyed as follows:

- (a) an initial survey before the ship is put in service or before the International Oil Pollution Prevention Certificate required under section 53 is issued for the first time which

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- (i) includes a complete survey of the structure, equipment, systems, fittings, arrangements and material, and
 - (ii) ensures that the structure, equipment, systems, fittings, arrangements and material comply with the applicable requirements of this Part;
- (b) a renewal survey to be carried out at intervals of five years which ensures that the structure, equipment, systems, fittings, arrangements and material comply with the applicable requirements of this Part; and
- (c) an intermediate survey to be carried out
- (i) within three months before or after the second anniversary date, or
 - (ii) within three months before or after the third anniversary date

of the issue of the International Oil Pollution Prevention Certificate.

(2) The intermediate survey shall take the place of one of the annual surveys specified under section 45 (1) and shall ensure that the equipment, associated pumps, piping systems, oil discharge monitoring systems, oil discharge control systems, crude oil washing systems, oily-water separating equipment and oil filtering systems fully comply with the requirements in this Act and are in good working order.

(3) The intermediate surveys shall be endorsed on the Certificate issued under section 53 or 54.

(4) The Authority shall establish appropriate measures for Ghanaian ships to which subsection (1) does not apply in order to ensure that the appropriate provisions of this Act are complied with.

Annual survey

45. (1) A Ghanaian oil tanker or ship specified in section 44 (1) shall in addition to the surveys in that section be subject to an annual survey within three months before or after each anniversary date of the International Oil Pollution Prevention Certificate.

(2) The annual survey shall include a general inspection of the ship's structure, equipment, systems, fittings, arrangements and materials to ensure that these

- (a) have been maintained in good condition in accordance with the provisions of this Act, and

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(b) remain satisfactory for the service for which the ship is intended.

(3) The annual survey shall be endorsed on the International Oil Pollution Prevention Certificate issued under section 53 or 54.

Additional survey

46. (1) A ship specified in section 44 (1) shall be subject to an additional survey which may be general or partial as the circumstances require to be carried out if that ship is repaired after it has been involved in an accident or suffered a defect which substantially affects the integrity of the ship.

(2) The additional survey shall ensure that

- (a) the necessary repairs or renewals have been effectively made,
- (b) the materials and workmanship of the repairs are in all respects satisfactory, and
- (c) the ship complies in all respects with the requirements of this Part.

Nominated surveyors and recognised institutions

47. (1) The officers of the Authority shall carry out the surveys under sections 44, 45 and 46.

(2) The Authority may, delegate the surveys either to surveyors appointed for the purpose or organisations recognised by the Authority.

(3) An organisation shall comply with the guidelines adopted by the Organisation by resolution A.739 (18) as may be amended by the Organisation and the specifications adopted by the Organisation by resolution 789 (19) as may be amended by the Organisation.

(4) A surveyor or an organisation to whom a survey is delegated may as a minimum

- (a) require repairs to a ship; or
- (b) carry out surveys and inspections if requested by the appropriate authority of a country where MARPOL is in force.

(5) The Authority shall notify the Organisation of the specific responsibilities of appointed surveyors or recognised organisations and conditions of the authority delegated to them for circulation to countries where MARPOL is in force and for the information of their officers.

Corrective action

48. (1) Where a nominated surveyor or recognised organisation determines that the condition of a ship or its equipment

- (a) does not correspond substantially with the particulars in the International Oil Pollution Prevention Certificate, or
- (b) is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment,

the surveyor or organisation shall immediately require the ship to take corrective action and shall notify the Authority.

(2) Where the Authority through its own officers determines that a ship is in the condition referred to in subsection (1), the Authority shall require that ship to take corrective action immediately.

Withdrawal of International Oil Pollution Prevention Certificate and detention

49. Where corrective action required in section 48 is not taken

- (a) the International Oil Pollution Prevention Certificate of the ship shall be withdrawn and the Authority shall take steps that ensure that the ship does not sail until it can proceed to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment;
- (b) if the ship is in the port of another country where MARPOL is in force, the appropriate authorities shall be notified immediately; and
- (c) an owner or master of a ship shall pay to the Authority an administrative penalty of five hundred penalty units.

Assistance to other States where MARPOL is in force

50. (1) Where the government of a country where MARPOL is in force or the appointed surveyor of that country or a recognised organisation notifies the Authority that a ship certified by that member State is in a port or at an offshore terminal in Ghana and has failed to take corrective action following an inspection, the Authority shall give that government, surveyor or organisation the necessary assistance.

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(2) Where it appears that the ship, if permitted to sail would present an unreasonable threat of harm to the marine environment, the Authority shall take steps that ensure that the ship does not sail until the ship can proceed to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment.

Maintenance of ship

51. (1) The condition and equipment of a ship in respect of which the International Oil Pollution Prevention Certificate issued under this Act is in force shall be maintained at all times after the survey to comply in all respects with the provisions of MARPOL and Regulations made under this Act.

(2) After the completion of a survey of a ship under section 45, a change other than the direct replacement of an equipment or fitting shall not be made to the structure, equipment, systems, fittings, arrangements or materials covered by the survey without the prior approval of the Authority.

Report of accident and defect

52. (1) Where

- (a) a ship is involved in an accident, or
- (b) a ship is found to be defective to the extent that the defect substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by this Act,

the owner or master of the ship shall as soon as practicable after the accident, or discovery of the defect, give written notice to the

- (c) Authority,
- (d) recognised organisation, or
- (e) the appointed surveyor responsible for the issue of the International Oil Pollution Prevention Certificate

who shall cause an investigation to be conducted to determine whether a survey is necessary.

(2) Where the ship is in a port of a country where MARPOL is in force, the master or owner of the ship shall report the accident or defect immediately to the appropriate authorities of the country, and the appointed surveyor or recognised organisation shall ascertain that the report has been made.

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

International Oil Pollution Prevention Certificate

53. (1) An International Oil Pollution Prevention Certificate shall be issued after

- (a) an initial or renewal survey in accordance with the provisions of section 44, and
- (b) the applicable requirements of the appropriate Regulations referred to in section 249 have been complied with by a Ghanaian oil tanker of one hundred and fifty gross tonnage or more and any other ship of four hundred gross tonnage or more which is engaged in a voyage to a port or offshore terminal under the jurisdiction of a country where MARPOL is in force.

(2) The International Oil Pollution Prevention Certificate shall be issued or endorsed either by

- (a) the Authority, or
- (b) any persons or organisations authorised by the Authority and in every case the Authority shall have full responsibility for the Certificate.

Issue or endorsement of Certificate at the request of government of a country where MARPOL is in force

54. (1) The Authority may at the request of the government of a country where MARPOL is in force cause a ship to be surveyed, and if satisfied that the provisions of this Part have been complied with,

- (a) issue or authorise the issue of an International Oil Pollution Prevention Certificate to the ship, and
- (b) where appropriate endorse or authorise the endorsement of that Certificate on the ship.

(2) Where the government of a country where MARPOL is in force requests for a survey, a copy of the survey report and a copy of the Certificate shall be transmitted to the authority of the government which made the request.

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(3) An International Oil Pollution Prevention Certificate which is issued shall contain a statement to the effect that the certificate has been issued at the request of the Government of a country where MARPOL is in force.

(4) An International Oil Pollution Prevention Certificate issued by another country where MARPOL is in force at the request of the Authority and in respect of a Ghanaian ship shall have the same force and receive the same recognition in Ghana as an International Oil Pollution Prevention Certificate issued under this Act.

(5) An International Oil Pollution Prevention Certificate shall only be issued to a ship which is registered in a country where MARPOL is in force.

(6) An International Oil Pollution Prevention Certificate issued by another country where MARPOL is in force in respect of a ship registered in that country, shall have the same force and receive the same recognition in Ghana as an International Oil Pollution Prevention Certificate issued under this Act.

Form of International Oil Pollution Prevention Certificate

55. An International Oil Pollution Prevention Certificate shall be in the form set out in the Sixth Schedule.

Duration and validity of International Oil Pollution Prevention Certificate

56. (1) Subject to this section, an International Oil Pollution Prevention Certificate shall be in force for a period of not more than five years but the Certificate shall not remain in force after notice is given by the Authority to the owner, the master or agent of the ship in respect of which the Certificate has been issued that the Certificate has been cancelled.

(2) In the case of an oil tanker operating with dedicated clean ballast tanks for a limited period specified in the appropriate Regulations referred to in section 249, the period of validity of the Certificate shall not be more than the specified period.

(3) Despite subsection (1), where a renewal survey is completed within three months before the expiry date of the existing Certificate, the new Certificate is valid from the date of the completion of the renewal survey for five years from the date of expiry of the existing Certificate.

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(4) Where a renewal survey is completed after the expiry date of the existing Certificate, the new Certificate is valid from the date of the completion of the renewal survey for five years from the date of expiry of the existing Certificate.

(5) Where a renewal survey is completed more than three months before the expiry of the existing Certificate, the new Certificate is valid from the date of completion of the renewal survey for five years from the date of completion of the renewal survey.

(6) Where 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, a person or organisation authorised by the Authority may endorse the existing Certificate and that Certificate shall be accepted as valid for a further period which shall not be more than five months from the expiry date.

(7) Where a Certificate is issued for a period of less than five years, the Authority may extend the validity of the Certificate beyond the expiry date to the maximum of five years except that intermediate surveys required under section 44 (c) and annual surveys under section 45 (1) are to be carried out as appropriate.

(8) Where a Ghanaian ship is not in a port in which it is to be surveyed on the date of expiry of the International Oil Pollution Prevention Certificate issued to that ship under this Part, the Authority or any person authorised by the Authority may extend the validity of that Certificate in the first instance by a period of between one month after its initial date of expiry up to a maximum of three months in the aggregate.

(9) An extension referred to in subsection (8) shall be granted only to enable the ship to complete its voyage to the port in which the survey is to be carried out and only where the grant of the extension appears proper and reasonable.

(10) A ship to which an extension under subsection (8) is granted shall not on its arrival in the port in which the survey is to be carried out, be entitled by virtue of the extension to leave port without having obtained a new Certificate.

(11) Where the renewal survey is completed, the new Certificate is valid to a date not more than five years from the date of the expiry of the existing Certificate before the extension was granted.

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(12) A Certificate issued to a ship engaged on a short voyage which has not been extended under the foregoing provisions of this section may be extended by the Authority for a period of up to one month from the expiry date stated on the Certificate.

(13) In special circumstances as may be determined by the Authority,

(a) a new certificate need not be dated from the date of expiry of the existing Certificate as required by subsections (4), (8) and (12); but

(b) the new Certificate is valid for five years from the date of completion of the renewal survey.

(14) If an annual or intermediate survey is completed before the period specified in sections 44, 45 and 46

(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 sections 44, 45 and 46 of this Act shall be completed at intervals prescribed by those sections using the new anniversary date; and

(c) the expiry date may remain unchanged if one or more annual or intermediate surveys, as appropriate are carried out to ensure that the maximum intervals between the surveys as stated in sections 45 and 46 are not exceeded.

(15) An International Oil Pollution Prevention Certificate ceases to be valid

(a) if the surveys required to be carried out under section 44 are not completed within the periods specified;

(b) if a certificate is not endorsed in accordance with section 44 or 45; or

(c) on the transfer of the ship to the flag of another State.

(16) An owner or master of a ship that operates without a valid International Oil Pollution Prevention Certificate shall pay to the Authority an administrative penalty of seven hundred penalty units.

Change of flag

57. (1) On transfer of a Ghanaian ship to the flag of a country where MARPOL is in force, and where the country makes a request within ninety days after the transfer has taken place, the Authority shall transmit as soon as possible to the Government of the country concerned

- (a) a copy of the International Oil Pollution Prevention Certificate carried by the ship before the transfer, and
- (b) if available, a copy of the ship's most recent survey report.

(2) Where a ship is transferred to a Ghanaian flag, a new International Oil Pollution Prevention Certificate shall only be issued when the Authority is fully satisfied that the ship has completely complied with the requirements of section 51.

Control of discharge of oil

58. (1) Subject to this section and section 66

- (a) an oil tanker registered in Ghana, or
- (b) a foreign ship in Ghanaian waters

shall not discharge oil or oily mixtures from its cargo area into the sea.

(2) Subject to subsection (3), a discharge of oil or oily mixtures from an oil tanker registered in Ghana is permissible if

- (a) the tanker is not within a special area;
- (b) the tanker is more than fifty nautical miles from the nearest land;
- (c) the tanker is proceeding on a voyage;
- (d) the instantaneous rate of discharge of oil content is not more than thirty litres per nautical mile;
- (e) the total quantity of oil discharged into the sea is not more than, 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; or
- (f) the tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by the Regulations made under section 249.

(3) Subsection (2) applies to discharges of oil or oily mixtures from

- (a) machinery space bilges of oil tankers where the oil or oily mixture is mixed with cargo oil residue or where the oil or mixture of oil is transferred to a slop tank; and
- (b) cargo pump-room bilges of oil tankers.

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(4) A discharge of oil or oily mixtures from a Ghanaian ship of four hundred gross tonnage or more is permissible if

- (a) the ship is not within a special area;
- (b) the ship is proceeding on voyage;
- (c) the oily mixture is processed through an oil filtering equipment as required by Regulations made under section 249;
- (d) the oil content of the effluent without dilution is not more than fifteen parts per million;
- (e) the oily mixture does not originate from cargo pump-room bilges or oil tankers; or
- (f) the oily mixture in the case of an oil tanker is not mixed with cargo residues.

Ships less than four hundred gross tonnage

59. In the case of a Ghanaian ship of less than four hundred gross tonnage in all areas except the Antarctic area, oil and oily mixtures shall either be retained on board for subsequent discharge to reception facilities or discharged into the sea in accordance with the following conditions:

- (a) the ship is proceeding on a voyage;
- (b) the ship has in operation equipment of a design approved by the Authority which ensures that the oil content of the effluent without dilution does not exceed fifteen parts per million;
- (c) the oily mixture does not originate from pump-room bilges or oil tankers; and
- (d) the oily mixture, in the case of oil tankers is not mixed with oil cargo residues.

Voyage partly through a special area

60. When a ship registered in Ghana embarks on a voyage only part of which is in a special area, the ship may discharge outside the special area in accordance with section 58.

Special provision for Antarctic area

61. A Ghanaian ship shall before entry into the Antarctic area be fitted with a tank or tanks of sufficient capacity on board for the retention of sludge, dirty ballast, tank washing water, and other oil residues and mixtures while in operation within the area, and have concluded arrangements to discharge the oil residues at a reception facility after leaving the area.

Chemical discharge prohibited

62. A discharge of oil into the sea shall not contain other chemicals or substances

- (a) in quantities or concentrations which are contrary to this Act, or
- (b) introduced for the purpose of circumventing the conditions of discharge specified in this Act.

Investigation

63. Where 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 Authority shall in collaboration with the Agency and other relevant agencies immediately carry out an investigation of the facts to find out whether section 58 or 59 have been contravened and the investigation shall include in particular, an investigation of

- (a) the wind and sea conditions,
- (b) the track and speed of the ship,
- (c) other possible sources of the visible traces in the vicinity, and
- (d) any relevant oil discharge records.

Retention of oil residue on board

64. The oil residues which cannot be discharged into the sea in accordance with sections 58 and 59 shall be retained on board and discharged to reception facilities.

Tanks for oil residue

65. (1) A Ghanaian ship of four hundred gross tonnage or more shall be provided with a tank of adequate capacity having regard to the type of machinery and length of voyage, to receive the oil residue including those resulting from the purification of fuel and lubricating oils and oil leakages in the machinery spaces which cannot be dealt with in accordance with the requirements of this Part.

- (2) The tank shall in the case of
 - (a) a new Ghanaian ship, be designed and constructed to facilitate the cleaning of the tank and the discharge of residues to reception facilities; or
 - (b) an existing Ghanaian ship, comply with the requirements of paragraph (a) as far as is reasonable and practicable.

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(3) Piping to and from a sludge tank shall not have a direct connection overboard other than the standard discharge connection as provided for by Regulations made under section 249.

(4) A Ghanaian ship that does not comply with subsection (1), (2) or (3)

(a) shall pay to the Authority an administrative penalty of four hundred penalty units, and

(b) may have its certificate withdrawn by the Authority.

Exceptions

66. (1) Sections 58 and 59 do not apply to

(a) the discharge into the sea of oil or oily mixture necessary for the purpose of securing the safety of a Ghanaian 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 if

(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 a substance containing oil, approved by the Authority and the Agency where the substance is being used for the combat of a specific pollution incident in order to minimise the damage from pollution.

(2) Where a discharge specified in subsection (1) is anticipated to occur in waters within the jurisdiction of another State, the discharge shall be subject to the approval of the government of that State.

Provision of reception facilities

67. (1) The Authority shall ensure that at oil loading terminals, repair ports, and in other ports in which ships have oily residue to discharge, there are adequate facilities for the reception of the residues and oily mixtures from oil tankers and other ships and that the facilities meet the needs of the ships using them without causing undue delay to

the ships.

(2) An operator of an oil loading terminal, repair port or other port that has inadequate reception facilities shall pay to the Authority an administrative penalty of one thousand five hundred penalty units for each month that the default continues.

Location of reception facilities

68. The reception facilities required in section 67 shall be provided in

- (a) any port or terminal where crude oil is loaded into oil tankers which prior to arrival at the port or terminal have completed a ballast voyage of not more than seventy-two hours or not more than one thousand and two hundred nautical miles;
- (b) any port or terminal 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) any port that has a ship repair yard or a tank cleaning facility;
- (d) any port or terminal that handles ships provided with sludge tanks required by section 65 (1);
- (e) any port or terminal that handles ships from which oil bilge waters and other residues cannot be discharged in accordance with sections 58 and 59; or
- (f) any loading port for bulk cargoes in respect of oil residues from combination carriers which cannot be discharged in accordance with sections 58 and 59.

Regulations for capacity of reception facility

69. The Minister may make Regulations to prescribe for the capacities of reception facilities provided under section 68.

Notice of inadequate reception facility

70. The Authority shall notify the Organisation in writing of all cases where a reception facility provided under this Part in Ghana or in any other country where MARPOL is in force is alleged to be inadequate.

Oil Record Book

71. (1) A Ghanaian oil tanker of one hundred and fifty gross tonnage or more shall be provided with an Oil Record Book which is made up of

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parts.

(2) Part One of the Oil Record Book shall contain entries on machinery space operations and Part Two shall contain entries on cargo and ballast operations.

(3) A Ghanaian ship of four hundred gross tonnage or more other than an oil tanker shall be provided with an Oil Record Book which shall contain entries on cargo and ballast operations.

(4) The Oil Record Book

- (a) shall be in the form specified in the Seventh Schedule, and
- (b) may be maintained as part of the ship's official log book.

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

- (a) for machinery space operations in all ships
 - (i) ballasting or cleaning of oil fuel tanks;
 - (ii) discharge of dirty ballast or cleaning water from oil fuel tanks;
 - (iii) collection and disposal of oily residues;
 - (iv) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces;
 - (v) bunkering of fuel or lubricating oil or both; and
- (b) for cargo or ballast operations in 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) closure of 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; and
 - (x) disposal of residues.

(6) In the event of discharge of oil or oily mixture under section 66 or in the event of accidental or other exceptional discharge of oil which is not an exception under that section, a statement shall be made in the Oil

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Record Book of the circumstances of, and the reasons for the discharge.

(7) Each operation described in subsection (5) shall be fully recorded without delay in the Oil Record Book and all entries in the book appropriate to that operation shall be completed.

(8) Where there is a failure to record an operation described in subsection (5), an owner or master of a ship shall pay to the Authority an administrative penalty of two hundred penalty units for each entry that should have been recorded.

(9) 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.

(10) An entry in the Oil Record Book of a Ghanaian ship shall be in English and for any other ship which holds an International Oil Pollution Prevention Certificate, the entry shall be made in either English or French.

(11) An entry made in English in the Oil Record Book of a Ghanaian ship shall prevail in the event of any dispute or discrepancy.

(12) The Oil Record Book shall be

- (a) kept in a place that makes it 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.

(13) The Authority or a person authorised by the Authority may inspect the Oil Record Book on board

- (a) a Ghanaian ship to which this Part applies; and
- (b) any other ship to which this Part applies while the ship is in a port or an offshore terminal of Ghana.

(14) The competent authority of the government of a country where MARPOL is in force may inspect the Oil Record Book on board any Ghanaian ship to which this Part applies while the ship is in a port or offshore terminal of that country.

(15) The Authority or the 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 the entry.

(16) A copy 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 Ghana as evidence of the facts stated in the entry.

(17) The inspection of an Oil Record Book and the taking of a certified copy as provided for in this section shall be done as expeditiously as possible to ensure that the ship is not unduly delayed.

(18) A Ghanaian oil tanker of less than one hundred and fifty gross tonnage shall be provided with an appropriate Oil Record Book as prescribed by the Authority.

(19) Where a ship does not have an Oil Record Book or fails to produce an Oil Record Book, an owner or master of the ship shall pay to the Authority an administrative penalty of six hundred penalty units.

Special requirements for drilling rigs, other platforms and offshore installations

72. (1) This section applies to an offshore installation including

- (a) drilling rigs,
- (b) floating production storage offloading facilities used for offshore production and storage of oil, and
- (c) floating storage units used for the offshore storage of produced oil.

(2) The operator of a fixed or floating drilling rig or other platform engaged in the exploration exploitation, and associated offshore processing of sea-bed mineral resources shall, in respect of discharges, comply with the requirements of this Part applicable to ships of four hundred gross tonnage or more other than oil tankers, except that the rig or platform shall

- (a) be equipped as far as practicable with the installations required under section 65 and the Regulations made under section 249;
- (b) keep a record of all operations involving oil or oily mixture discharges, in a form approved by the Authority; and
- (c) subject to section 66
 - (i) discharge oil or oily mixture,
 - (ii) drain from the machinery spaces, oil tanks and other parts of the installation;

in a special area in the sea and ensure that the oil content of the discharge without dilution is not more than forty parts per million.

(3) Where an owner or master of a rig or platform contravenes subsection (2)(b), the owner or master shall pay to the Authority an administrative penalty of four hundred penalty units for each entry that should have been recorded.

Shipboard oil pollution emergency plan

73. (1) A Ghanaian oil tanker of one hundred and fifty gross tonnage or more and any other Ghanaian ship of four hundred gross tonnage or more shall carry on board a shipboard oil pollution emergency plan.

(2) Where a Ghanaian oil tanker of one hundred and fifty gross tonnage or more or any other Ghanaian ship of four hundred gross tonnage or more contravenes subsection (1), the owner or master of the oil tanker or ship shall pay to the Authority an administrative penalty of six hundred penalty units.

Offences and interpretation

74. (1) Where a ship, or the master, or owner of a ship fails to comply with any requirement of this Part, Schedules or any Regulations made under section 116, 124, 130, 165 and 182, the master or owner and in the case of the ship the master and the owner commit an offence and are liable on summary conviction to a fine of not less than five hundred penalty units and not more than one thousand penalty units or to a term of imprisonment of not more than four years or to both.

(2) It is a defence for a person charged under subsection (1) to show that all reasonable precautions were taken and all due diligence was exercised to avoid the commission of the offence.

(3) Where an offence under this section is committed or where an offence would have been committed by a person because of the act or default of some other person, that other person is liable for the offence and that other person may be charged and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

(4) In this Part, unless the context otherwise requires,
“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the International Oil Pollution Prevention Certificate of a ship;

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“clean ballast” means the ballast in the tank of a ship which has since oil was last carried in the tank been so cleaned that if effluent from the tank were discharged

(a) when the ship was stationary, into clean calm water on a clear day there will be no

(i) visible traces of oil on the surface of the water or on adjoining shorelines, or

(ii) sludge or emulsion deposited beneath the surface of the water, or upon adjoining shorelines,
or

(b) through an oil discharge monitoring and control system approved by the Authority, evidence based on the system will show that the oil content of the effluent does not exceed fifteen parts per million;

“combination carrier” means a ship designated to carry oil and solid cargoes in bulk;

“crude oil” includes any liquid hydrocarbon mixture that occurs naturally in the earth whether treated or not to render it suitable for transportation, particularly

(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;

“existing ship” means a ship which is not a new ship;

“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;

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

“major conversions” mean a conversion of an existing ship

(i) which substantially alters the dimensions, structure or carrying capacity of the ship;

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- (ii) which changes the type of the ship;
- (iii) the intent of which in the opinion of the Authority is substantially to prolong its life; or
- (iv) which substantially alters the ship that if it were a new ship, it would be subject to the relevant provisions of this Part, not be applicable as an existing ship;

“new ship” means a ship

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

“oil” includes petroleum in the form of crude oil, fuel oil, sludge, oil refuse and refined products and the substances listed in the Fifth Schedule other than a petrochemical subject to Chapter Three of this Part;

“oil bilge waters” means oily waters that collect in the bilge of a ship which is where the sides of the vessel curve in to form the bottom of the vessel;

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

“oily mixture” means a mixture with oil content;

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and comprises among others

- (a) a combination carrier;
- (b) any Noxious Liquid Substance as defined in Chapter Three of this Part; and
- (c) any gas carrier when carrying a cargo or part cargo of oil in bulk;

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“product carrier” means an oil tanker engaged in the trade of carrying oil other than crude oil;

“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 and cargoes other than oil or noxious substances; and

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

CHAPTER THREE

PREVENTION OF POLLUTION BY NOXIOUS LIQUID
SUBSTANCES IN BULK

Application of Chapter Three of Part Four

75. (1) Unless otherwise provided in this Chapter, this Chapter applies to all ships that carry noxious liquid substances in bulk.

(2) Subject to Chapter Two of this Part where cargo is carried in a cargo space of a noxious liquid substance tanker, the appropriate requirements of Chapter Two of this Part shall also apply.

Conversion of ship to chemical tanker

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

(2) For the purpose of this section,

(a) an oil tanker or a chemical tanker previously not certified to carry chemicals which are a safety hazard but which changes to a service of carrying those cargoes shall be considered as having undergone a conversion;

(b) cargoes which are a safety hazard are those identified in Division 6 of the Bulk Chemical Code or Division 17 of the International Bulk Chemical Code.

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- (3) Subsection (1) does not apply to the modification of a ship which is
- (a) constructed before 1st July, 1986; or
 - (b) certified under the Bulk Chemical Code to carry only those products identified by the Bulk Chemical Code as substances with pollution hazards only.

(4) Subsection (3) applies only to modifications made on oil tankers and chemical tankers.

(5) The word “modification” refers to changes necessary to comply with provisions of this Chapter, and comprises among others the fitting of improved stripping systems and underwater discharge arrangements but does not include major structural changes necessary to comply with ship type requirements.

Modification or delay of application of amendments

77. (1) Where an amendment to this Chapter, the International Bulk Chemical Code and the Bulk Chemical Code involve changes to the structure or equipment and fittings due to the upgrading of the requirements for the carriage of certain substances, the Authority may modify or delay for a specified period, the application of the amendment to a ship constructed before the date of entry into force of that amendment, if the immediate application of the amendment is considered unreasonable or impracticable.

(2) The modification or delay of application of an amendment referred to in subsection (1) shall be determined with respect to each substance.

(3) Where the Authority permits a modification or delay of application of an amendment as referred to in this section, the Authority shall submit to the Organisation, a report giving details of

- (a) the ship concerned,
- (b) the cargoes carried,
- (c) the trade in which the ship is engaged, and
- (d) the justification for the modification or delay of application of the amendment,

for circulation to other countries where MARPOL is in force for their information and appropriate action, if any.

(4) A modification or delay of application referred to in subsection (1) shall be reflected in the Certificate issued under this Chapter.

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(5) Despite the foregoing provisions, the Authority may exempt a ship from the carriage requirements of section 113 for ships certified to carry individually identified vegetable oils identified by the relevant footnote of Chapter 17 of the International Bulk Chemical Code if the ship complies with the following:

- (a) that subject to this section, the Noxious Liquid Substances tanker shall meet all the requirements for ship type 3 as identified in the International Bulk Chemical Code except for cargo tank location; and
- (b) under this section, cargo tanks shall be located at the following distances and the entire cargo length shall be protected by ballast tanks or spaces other than tanks that carry oil as follows:
 - (i) wing tanks or spaces shall be arranged in a way that cargo tanks are located inboard of the moulded line of the side shell plating nowhere less than seven hundred and sixty millimetres;
 - (ii) double bottom tanks or spaces shall be arranged in a way that the distance between the bottom of the cargo tanks and the moulded line of the bottom shell plating measured at right angles to the bottom shell plating is not less than $B/15$ (m) or 2.0m at the centre line, whichever is the lesser;
 - (iii) the minimum distance shall be 1.0m; and
 - (iv) the relevant certificate shall indicate the exception granted.

(6) Subject to subsection (4), the provisions of Regulations made under section 116 do not apply to a ship constructed before 1st July, 1986 which is engaged in restricted voyages as determined by the Authority between

- (a) a port or terminal within Ghana; or
- (b) a port or terminal in a country where MARPOL is in force.

(7) Subsection (3) applies to a ship constructed before 1st July, 1986 if

- (a) each time a tank which contains the substances referred to in section 79 (1) or mixtures of those substances is to be washed or ballasted, the tank is washed in accordance with

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- (i) the pre-wash procedure approved by the Authority in compliance with the Thirteenth Schedule 'C', and
 - (ii) the tank washings are discharged to a reception facility;
 - (b) subsequent washings or ballast water is discharged to a reception facility or at sea in accordance with other provisions of this Chapter;
 - (c) the adequacy of the reception facilities at the ports or terminals referred to in subsection (6) for the purpose of this subsection is approved by the Authority;
 - (d) with regard to a ship engaged on a voyage to a port or terminal where MARPOL is in force, the competent authority shall communicate to the Organisation, the particulars of exemption granted to a ship for their information and appropriate action; and
 - (e) the certificate required under this Chapter, is endorsed to the effect that the ship is solely engaged on a restricted voyage.
- (8) Where a ship has constructional and operational features which
- (a) do not require ballasting of cargo tanks, or
 - (b) requires cargo tank washing only for repair or dry-docking,
- the Authority may allow exemption from the provisions of the Regulations made under section 116 if the following conditions are complied with:
- (c) the design, construction and equipment of the ship are approved by the Authority having regard to the service for which it is intended;
 - (d) the effluent from tank washings which may be carried out before a repair or dry-docking is discharged to a reception facility approved by the Authority;
 - (e) the certificate required under this Chapter, indicates:
 - (i) that each cargo tank is certified for the carriage of a restricted number of substances which are comparable and can be carried alternatively in the same tank without intermediate cleaning; and
 - (ii) the particulars of the exemption;
 - (f) the ship carries a manual approved by the Authority; and
 - (g) in the case of a ship engaged in a voyage to a port or terminal located in a country where MARPOL is in force, the

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competent authority shall communicate to the Organisation, particulars of any exemption granted for circulation to the countries for their information and appropriate action, if any.

Equivalents

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

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

(3) Where the Authority allows a fitting, material, appliance or apparatus as an alternative to the provisions of subsection (1), the Authority shall communicate this information to the Organisation for circulation to countries where MARPOL is in force for their information and action if any.

(4) The Authority may grant permission under this section for liquefied gas carriers which carry noxious liquid substances listed in the Gas Carrier Code to have equivalents for the construction and equipment requirements contained in this Chapter and in Regulations made under section 116 (b), where a gas carrier

- (a) holds a Certificate of Fitness in accordance with the appropriate provisions of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, 1983 as amended;
- (b) holds an International Pollution Prevention Certificate for the carriage of Noxious Liquid Substances in Bulk, in which it is certified that the gas carrier may only carry those noxious liquid substances identified and listed in the appropriate Gas Carrier Code;
- (c) is provided with segregated ballast arrangements;
- (d) is provided with pumping and piping arrangements which satisfy the requirements and ensure that the quantity of cargo residue remaining in the tank and its associated piping

- after unloading does not exceed the applicable quantity of residue required by Regulations made under section 116; and
- (e) is provided with a manual approved by the Authority which ensures that
 - (i) cargo residues and water are not mixed operationally; and
 - (ii) cargo residues do not remain in the tank after the application of ventilation procedures prescribed in the manual.

Categorisation of noxious liquid substances

79. (1) For the purposes of this Chapter “noxious liquid substances” are categorised as follows:
- (a) Category X consists of 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, and therefore justify the prohibition of the discharge into the marine environment;
 - (b) Category Y consists of noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would
 - (i) present a hazard to either marine resources or human health, or
 - (ii) cause harm to amenities, or other legitimate uses of the sea and therefore justify a limitation on the quality and quantity of the discharge into the marine environment; and
 - (c) Category Z consists of 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 and therefore justify less stringent restrictions on the quality and quantity of the discharge into the marine environment.
- (2) The details of the categories of noxious liquid substances are as specified in
- (a) the Guidelines in the Ninth Schedule, and
 - (b) the Eighth Schedule in the case of noxious liquid substances carried in bulk which are subject to these sections and categorised as Category X, Y or Z.

Other liquid substances

80. (1) With respect to liquid substances other than those referred to in section 79 which have been evaluated and which fall outside Categories X, Y and Z as provided in section 79, reference shall be made to the substances referred to in the Tenth Schedule.

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

Provisional assessment and categorisation of substances

81. (1) Where it is proposed to carry a liquid substance which is not categorised under section 79, the Authority shall, in co-operation with the Governments of other countries where MARPOL is in force and which are involved in the 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).

(2) Until full agreement is reached between the Authority and the governments concerned, the substance shall not be carried.

(3) As soon as possible but not later than thirty days after the first carriage of the substance referred to in subsection (1), the Authority shall notify the Organisation and provide details of the substance, and the provisional assessment for prompt circulation to all countries where MARPOL is in force for their information and consideration.

(4) The Organisation shall maintain a register of all the substances and their provisional assessment until the time that the substances are included in the International Bulk Chemical Code.

Clean or segregated ballast

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

Procedures and arrangement manual

83. (1) A Ghanaian ship which is certified to carry Category X, Y or Z substances shall have on board a manual approved by the Authority.

(2) The manual shall be in the standard format set out in the Thirteenth Schedule A.

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(3) The purpose of the manual is to identify for the ship's officers, the physical arrangements and operational procedures which relate to

- (a) cargo handling,
- (b) tank cleaning,
- (c) slop handling, and
- (d) cargo tank ballasting and deballasting

which must be followed in order to comply with the requirements of this Chapter.

(4) Where a Ghanaian ship which is certified to carry category X, Y or Z substances contravenes subsection (1), an owner or master of the ship shall pay to the Authority an administrative penalty of three hundred penalty units.

Discharge into the sea of residues assigned to Category X, Y or Z

84. Subject to sections 89 and 94, residues of substances as provided in section 79 or as provisionally assessed under section 81, ballast water, tank washings or other residues or mixtures containing noxious liquid substance shall not be discharged into the sea except where the following conditions are satisfied:

- (a) that before a pre-wash or discharge procedure is carried out the relevant tank is emptied in accordance with the procedure prescribed; and
- (b) the carriage of substances which have not been categorised, provisionally assessed or evaluated under section 81 (1) or of ballast water, tank washings or other mixtures which contain the residues are prohibited along with the consequential discharge of the substances into the sea.

Discharge standards

85. (1) Subject to sections 89 and 94, residues of substances under section 79 or section 81 (1), or ballast water, tank washings or other mixtures containing this substance may be discharged into the sea if the following conditions are satisfied:

- (a) the ship is proceeding en route at a speed of at least seven knots in the case of a self-propelled ship or at least four knots in the case of a ship which is not self-propelled;

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- (b) the discharge is made below the waterline through the underwater discharge outlet not exceeding the maximum rate for which the underwater discharge outlet is designed; and
- (c) 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.

(2) For a ship constructed before 1st January, 2007, the discharge into the sea of residues of substances in Category Z or those provisionally assessed under section 81 (1) or ballast water, tank washings or other mixtures containing this substance below the waterline shall not be mandatory.

(3) The Authority may waive the requirements of subsection (1) (c) for substances in Category Z with regard to the distance of not less than twelve nautical miles from the nearest land for a Ghanaian ship operating within Ghana's maritime jurisdiction.

(4) The Authority may, in addition, waive the requirements of subsection (1) (c) with regard to the discharge distance of not less than twelve nautical miles from the nearest land for a Ghanaian ship where it is engaged in voyages within the waters of a coastal state.

(5) The waiver shall only be granted after an agreement in writing between two coastal States has been entered into if a third State is not involved.

(6) The contents of the agreement shall be communicated to the Organisation within thirty days for circulation to countries where MARPOL is in force for their information and appropriate action, if any.

Ventilation of cargo residue

86. (1) A ventilation procedure approved by the Authority may be used to remove cargo residues from a tank.

(2) The procedure shall be in accordance with the Thirteenth Schedule D.

(3) Any water 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 the discharge requirements of this Chapter.

Exemption for a pre-wash

87. The Authority may, at the request of a ship master, grant an exemption for a pre-wash if the cargo is unloaded in Ghana and where the Authority is satisfied that

- (a) the unloaded tank is to be reloaded with the same substance or another substance compatible with the previous one and that the tank shall not be washed as ballasted prior to loading;
- (b) the unloaded tank is neither washed nor ballasted at sea;
- (c) the pre-wash is in accordance with section 84 and the pre-wash shall take place in another port if it has been confirmed in writing that a reception facility at that port is available and is adequate for the purpose; or
- (d) the cargo residue shall be removed in accordance with the Thirteenth Schedule D.

Use of cleaning agents or additives

88. (1) Where a washing medium other than water which includes mineral oil or chlorinated solvent is used instead of water to wash a tank, its discharge shall be governed by the provisions of Chapter Two of this Part or this Chapter as if the mineral oil or the chlorinated solvent had been carried as cargo.

(2) The procedure for tank washing where mineral oil or chlorinated solvent is used shall be as set out in the manual referred to in the Thirteenth Schedule A.

(3) Where small amounts of additives or detergent products are added to water in order to facilitate tank washing, an additive which contains Category X pollution components shall not be used except those components that are readily biodegradable and are present in a total concentration of less than ten percent of the cleaning additive.

(4) A restriction which is additional to those applicable to the tank due to the previous cargo does not apply.

Discharge of residues of Category X

89. (1) Subject to section 94 where residues of Category X substances are discharged, the following shall apply:

- (a) before the ship leaves the port in Ghana where the substance has been unloaded, the tank from which the substance was unloaded shall be pre-washed;

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- (b) any residue left in the tank after it has been pre-washed shall be discharged to a reception facility until a time that the concentration of the substance in the effluent to the facility as indicated by analyses of samples of the effluent taken by the surveyor is at or below 0.1% by weight;
- (c) after the requisite concentration level has been achieved, any remaining tank washings shall continue to be discharged to the reception facility until the tank is empty;
- (d) an entry of these operations is made in the Cargo Record Book and the entry shall be endorsed by the surveyor referred to in subsection (1).

(2) Where the procedures under subsection (1) have taken place, any water introduced into the empty tank may be discharged into the sea in accordance with section 85(1).

(3) Where the Authority is satisfied that with regards to a cargo unloaded in Ghana, it is impracticable to measure the concentration of the substance in the effluent without causing undue delay to the ship, the Authority may accept an alternative procedure as being equivalent to obtaining the required concentration if

- (a) the tank is pre-washed in accordance with a procedure approved by the Authority in compliance with the Thirteenth Schedule C; and
- (b) an appropriate entry is made in the Cargo Record Book and endorsed by the surveyor referred to in subsection (1).

Discharge of residues of Category Y and Z

90. (1) Subject to section 94, the residue of a Category Y or Z substance shall be discharged in accordance with the discharge standards laid down in section 85 (1).

(2) Where the unloading of a Category Y or Z substance is not carried out in accordance with the manual referred to in section 83, a pre-wash shall be carried out before the ship leaves the port where it was unloaded unless alternative measures are taken to the satisfaction of the surveyor referred to in section 98 to remove the cargo residue from the ship to quantities specified in this Chapter.

(3) Any residue left in the tank after it has been pre-washed shall be discharged to a reception facility at the port where the cargo was unloaded or another port with a suitable reception facility if there is confirmation in writing that there is available at the port an adequate reception facility for the purpose.

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(4) For high viscosity or solidifying substances in Category Y the following provisions shall apply:

- (a) a pre-wash procedure as specified in the Thirteenth Schedule C, shall be applied by the master of the ship;
- (b) any residue or water mixture generated during the pre-wash shall be discharged to a reception facility until the tank is empty; and
- (c) any water introduced into the tank after the pre-wash may be discharged into the sea in accordance with section 85 (1).

Special provision for Antarctic area

91. Subject to section 94, a noxious liquid substance or a mixture containing such a substance shall not be discharged into the sea in the Antarctic area.

Operational requirements for ballasting and deballasting

92. (1) A cargo tank may be ballasted, after unloading in a port or terminal in Ghana and, if required, after a pre-wash.

(2) The procedure for the discharge of the ballast is set out in section 85.

(3) Any ballast introduced into a cargo tank which has been washed to the extent that the ballast contains less than one ppm of the substance previously carried may be discharged into the sea without regard to the discharge rate, the ship's speed and discharge outlet location if

- (a) the ship is not less than twelve nautical miles from the nearest land and in water that is not less than twenty-five metres deep;
- (b) the ship was built before 1st July, 1994 or with a water quantity of not less than that calculated with $K = 1.0$, the required degree of cleanliness has been achieved when the pre-wash specified in the Thirteenth Schedule C has been carried out and the tank has been subsequently washed with a complete cycle of the cleaning machine; or
- (c) any water introduced into the tank may be discharged into the sea in accordance with the discharge standard set out in section 85 (3).

(4) This section is subject to section 94.

Pumping, piping and unloading arrangements

93. Each Ghanaian ship to which this Chapter applies shall comply with the pumping, piping and unloading arrangements prescribed in Regulations made under section 116.

Exceptions

94. (1) Sections 84, 85, 89 and 91 do not apply to the discharge into the sea of a noxious liquid substance or a mixture which contains a substance

- (a) necessary for the purpose of securing the safety of a ship or saving life at sea;
- (b) resulting from damage to a ship or its equipment where
 - (i) reasonable precautions are 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 with intent to cause damage or act recklessly and with knowledge that damage was likely to result; or
- (c) approved by the Authority when being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.

(2) Where a discharge under subsection (1) is anticipated to occur in waters within the jurisdiction of another State, the discharge shall be subject to the approval of the government of that State.

Reception facilities for noxious liquid substances

95. (1) The operators of port and harbour facilities shall provide at ports and terminals or repair ports of Ghana, facilities for reception of residues and mixtures containing noxious liquid substances as would remain for disposal from ships carrying them as a consequence of the application of this Chapter.

- (2) The reception facilities required by 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.

(3) An operator of port and harbour facilities that contravenes subsection (1) shall pay to the Authority an administrative penalty of one thousand five hundred penalty units for each month that the default continues.

Arrangements at cargo unloading terminals

96. A person in charge of a port or terminal 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 terminals containing noxious liquid substances received from ships unloading these substances at such terminals, are not drained back to the ship.

Notification to Organisation regarding reception facilities

97. The Authority shall give the Organisation notice of
- (a) the location, type and capacity of every reception facility under this Chapter; and
 - (b) all cases where reception facilities provided for under this Chapter in Ghana or in any other country where MARPOL is in force are alleged to be inadequate.

Measures of control

98. (1) The Authority may appoint or authorise surveyors for executing measures of control with respect to noxious liquid substances in accordance with the applicable Regulations made under section 116.

(2) Where a surveyor appointed or authorised by the Authority has verified that

- (a) an operation has been carried out in accordance with the requirements of the Manual, or
- (b) an exemption for a pre-wash has been granted,

that surveyor shall make the appropriate entry in the Cargo Record Book.

(3) The master of a ship certified to carry noxious liquid substances in bulk shall ensure that the discharge provisions of this Chapter and this section are complied with and that the Cargo Record Book is completed in accordance with subsections (2), (3) and (5) of section 99.

(4) A tank which has carried a Category X substance shall be pre-washed in accordance with section 89.

(5) An appropriate entry of this operation shall be made in the Cargo Record Book and endorsed by the surveyor referred to in subsection (1).

(6) Where the Authority is satisfied that it is impracticable after the substance has been unloaded to measure the concentration of the

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substance in the effluent without causing undue delay to the ship, the Authority may accept the alternative procedure referred to in section 88 (3) if the surveyor mentioned in subsection (1) certifies in the Cargo Record Book that

- (a) the tank, its pump and piping system have been emptied;
- (b) the pre-wash has been carried out in accordance with the provisions of the Thirteenth Schedule 'C'; and
- (c) the tank washings resulting from the pre-wash have been discharged to a reception facility and the tank is empty.

(7) Where the cargo is unloaded in Ghana at the request of the master of the ship, the Authority may exempt the ship from the requirements for the pre-wash referred to under section 85 where one of the conditions of section 87 is met.

(8) The exemption referred to in subsection (7) may only be granted by the Authority to a ship which is engaged in a voyage to a port or terminal where MARPOL is in force.

(9) Where the exemption referred to in subsection (7) is granted, the appropriate entry made in the Cargo Record Book shall be endorsed by the surveyor appointed under subsection (1).

(10) Where an unloading is not carried out in accordance with the pumping conditions for the tank approved by the Authority, based on the Thirteenth Schedule 'B', an alternative measure may be adopted to the satisfaction of the surveyor referred to in subsection (1) to remove the cargo residues from the ship to quantities specified in accordance with the applicable Regulations made under section 116.

(11) An appropriate entry shall be made in the Cargo Record Book.

Cargo record book

99. (1) A 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 the Eleventh Schedule.

(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 takes place in the ship

- (a) loading of cargo;
- (b) internal transfer of cargo;
- (c) unloading of cargo;
- (d) mandatory pre-wash in accordance with the Ship's Procedures and Arrangements Manual;

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- (e) cleaning of cargo tanks, except mandatory pre-wash comprising other pre-wash operations, final wash or ventilation;
- (f) ballasting of cargo tanks;
- (g) discharge of ballast water from cargo tanks;
- (h) discharge into the sea of tank washing;
- (i) accidental or other exceptional discharge; or
- (j) additional operation procedures and remarks.

(3) In the event of a discharge under section 94 of any noxious liquid substance or mixture containing a 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) Where a surveyor appointed or authorised by the Authority to supervise an operation under this Chapter has inspected a ship, that surveyor shall make an appropriate entry in the Cargo Record Book.

(5) Each operation referred to under subsections (2) and (3) shall be fully recorded without delay in the Cargo Record Book so that all entries in the book appropriate to that operation are completed, and

- (a) 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;
- (b) an entry in the case of a Ghanaian ship shall be in English, and for any other ship holding an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be in English or French; and
- (c) an entry made in English prevails in the event of a dispute or discrepancy.

(6) An officer in charge of an operation referred to in subsection (2) or (3) who fails to record the operation in contravention of subsection (5) shall pay to the Authority an administrative penalty of two hundred penalty units for each entry that should have been recorded.

(7) Where a ship to which this Chapter applies does not have a Cargo Record Book or fails to produce a Cargo Record Book, an owner or master of the ship shall pay to the Authority an administrative penalty of six hundred penalty units.

(8) The Cargo Record Book shall

- (a) be kept in a place that makes it readily available for inspection and except in the case of an unmanned ship under tow, shall be kept on board the ship; and

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(b) be retained for a period of three years after the last entry has been made.

(9) The Authority may authorise the inspection of the Cargo Record Book on board

(a) a Ghanaian ship to which this Chapter applies; and

(b) any other ship to which this Chapter applies while the ship is in a Ghanaian port or offshore terminal.

(10) The competent authority of the Government of any country where MARPOL is in force may inspect the Cargo Record Book on board a Ghanaian ship to which this Chapter applies whilst the ship is in a port or offshore terminal of that country.

(11) The Authority or a person authorised by the Authority, or a competent authority may make a copy of any entry in the Cargo Record Book, and require the master of the ship to certify that the copy is a true copy of the entry and a copy certified by the master of the ship as a true copy shall be admissible in any judicial proceedings in Ghana as evidence of the facts stated in the entry.

(12) The inspection of a Cargo Record Book and the taking of a certified copy as provided for in this section shall be carried out as expeditiously as possible without causing the ship to be unduly delayed.

Surveys

100. (1) A Ghanaian ship to which this Chapter applies shall be surveyed as follows:

(a) an initial survey of the ship before the ship is put in service or before the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk, required under section 107 is issued for the first time to ensure that the structure, equipment, systems, fittings, arrangements and materials of the ship fully comply with the applicable requirements of this Chapter,

(b) a renewal survey at intervals of five years to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Chapter,

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- (c) 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 International Pollution Prevention Certificate which shall take the place of one of the annual surveys specified in paragraph (d) of this section to ensure that the equipment and associated pump and piping systems of the ship fully comply with the applicable requirements of this Chapter and are in good working order,
- (d) an annual survey within three months before or after each anniversary date of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk to ensure through a general inspection that the structure, equipment, systems, fittings, arrangements and materials of the ship have been maintained and remain satisfactory for the service for which the ship is intended, and
- (e) an additional survey either general or partial according to the circumstances shall be made whenever important repairs or renewals are made to ensure that the necessary repairs or renewals have been effectively made, the material and workmanship of the repairs or renewals are satisfactory and that the ship complies in all respects with the requirements of this Chapter.

(2) The intermediate and annual surveys shall be endorsed on the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.

Nominated surveyors and recognised organisations

101. (1) A surveyor or an organisation that is appointed to conduct a survey shall at least be empowered by the Authority to

- (a) require corrective action or repairs to a ship, and
- (b) carry out surveys and inspections if requested by the appropriate authority of a country where MARPOL is in force or a port State.

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(2) The Authority shall notify the Organisation of the specific responsibilities and conditions of the authority delegated to the surveyor or authorised organisation for circulation to countries where MARPOL is in force for the information of their officers.

Corrective action

102. (1) Where a surveyor or a recognised organisation determines that

- (a) the condition of the ship or its equipment does not correspond substantially with the particulars of the International Pollution Prevention Certificate for the carriage of Noxious Liquid Substances in Bulk, or
 - (b) the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment,
- the surveyor or organisation shall immediately ensure that the master or owner takes corrective action and shall notify the Authority.

(2) Where the Authority determines that a ship is in the condition referred to in subsection (1), it shall require that ship to take corrective action immediately.

Withdrawal of International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk

103. Where a corrective action required by section 102 is not taken

- (a) the Authority shall withdraw the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk of the ship, and take steps to ensure that the ship does not sail until it has proceeded 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 country where MARPOL is in force, the port State authorities shall be notified immediately.

Assistance to a country where MARPOL is in force

104. (1) Where the government of a country where MARPOL is in force or its nominated surveyor, or a recognised organisation gives notice to the Authority that a ship certified by that country which has failed to take corrective action in accordance with section 102, is in a port or at an offshore terminal within Ghana's maritime jurisdiction, the Authority shall give the government, surveyor or organisation the necessary assistance required.

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(2) Where it appears that the ship, if permitted to sail would present an unreasonable threat of harm to the marine environment, the Authority shall take steps to ensure that the ship is detained or made to proceed to the nearest appropriate repair yard available without presenting an unreasonable threat of harm to the marine environment.

Maintenance of condition of ship

105. The owner, master or agent of a 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 are applicable and 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 a 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 Authority, other than a direct replacement of the equipment and fittings.

Reports of accidents and defects

106. (1) Where a ship is involved in an accident or a defect is discovered on a ship which substantially affects the integrity of the ship or the efficiency or the completeness of its equipment, fittings, arrangements or material as required by this Chapter

- (a) the owner, master or agent of the ship shall report the accident or defect to
 - (i) the Authority at the earliest opportunity,
 - (ii) the recognised organisation, or
 - (iii) the appointed surveyor responsible for issuing the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk

who shall investigate the accident or defect to determine whether a survey would be necessary;

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

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(2) An owner, master or agent of a ship who fails to report an accident or defect in contravention of subsection (1) shall pay to the Authority an administrative penalty of five hundred penalty units.

(3) Where the investigation reveals that a survey is necessary, the survey shall be carried out in accordance with this Chapter.

(4) Where the survey reveals that the ship

- (a) no longer conforms with the requirements of this Chapter, or
- (b) is not fit to proceed to sea, without presenting an unreasonable threat of harm to the marine environment, the Authority shall require corrective action to be taken by the ship and if necessary, may cause the ship to be detained or to be moved to another place.

Noxious Liquid Substances Certificate

107. (1) The Authority or a person or organisation duly authorised by the Authority may issue to a Ghanaian ship to which this Chapter applies and which is engaged in a voyage to a port or an offshore terminal under the jurisdiction of a country where MARPOL is in force, an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk after an initial or renewal survey, and after the requirement of the appropriate Regulations made under section 116 have been complied with.

(2) The Authority shall be fully responsible for any Certificate issued under subsection (1), even where the Certificate is not directly issued by the Authority.

Issue or endorsement of Certificate

108. (1) The Authority may, at the request of the government of a country where MARPOL is in force, cause a ship to be surveyed and if satisfied that the provisions of these sections have been complied with

- (a) issue or authorise the issue of an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk to the ship, and
- (b) where appropriate, endorse or authorise the endorsement of that Certificate on the ship.

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(2) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued or endorsed by the Authority shall contain a statement to the effect that the certificate has been issued at the request of a country where MARPOL is in force and a copy of it together with a copy of the survey report shall be transmitted as early as possible to the government which made the request.

(3) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued by a country where MARPOL is in force at the request of the Authority shall have the same force and receive the same recognition in Ghana as an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk Certificate issued under this Chapter.

(4) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall only be issued to a ship registered in a country where MARPOL is in force.

Form of International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk

109. An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be in the form prescribed in the Twelfth Schedule.

Duration and validity of certificate

110. (1) Subject to this section, an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk is valid for five years from the date of its issue.

(2) Despite subsection (1), where a renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate is valid from the date of the completion of the renewal survey for five years from the date of expiry of the existing Certificate.

(3) Where the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate is valid for a period not exceeding five years from the date of completion of the renewal survey.

(4) Where the renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate is valid for a period not exceeding five years from the date of completion of the renewal survey.

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(5) Where a certificate is issued for a period less than five years, the Authority may extend the validity of the Certificate beyond the expiry date to the maximum of five years except that intermediate and annual surveys required under section 100 applicable when a certificate is issued for a period of five years are carried out as appropriate.

(6) Where 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 person or organisation authorised by the Authority may endorse the existing Certificate and the endorsed Certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

(7) Where a Ghanaian ship is not in a port in which it is to be surveyed on the date of expiry of the Certificate issued to that ship under these sections, the Authority or any person that the Authority may authorise for the purpose may extend the validity of the Certificate in the first instance by a period not exceeding one month from its initial date of expiry up to a maximum of three months in the aggregate.

(8) An extension under subsection (7) shall be granted only for the purpose of enabling the ship to complete its voyage to the port in which the ship is to be surveyed, and only where it appears proper and reasonable to grant the extension.

(9) 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 the extension to leave that port without having been issued with a new Certificate.

(10) A certificate issued to a ship engaged on a short voyage which has not been extended under the foregoing provisions of this section may be extended by the Authority for a period of up to one month from the expiry date stated on the Certificate.

(11) Where the renewal survey is completed, the new Certificate is valid for five years from the date of expiry of the existing Certificate before the extension was granted.

(12) In special circumstances as may be determined by the Authority,

- (a) a new Certificate need not be dated from the date of expiry of the existing Certificate as required by subsections (3), (7) or (10), and

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(b) the new Certificate shall be valid for five years from the date of completion of the renewal survey.

(13) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk ceases to be valid

(a) if the Certificate is not endorsed in accordance with section 100 (2),

(b) if the relevant surveys specified by the Authority under section 100 have not been carried out, and

(c) on the transfer of the ship to the flag of another State.

Transfer of flag

111. (1) On the transfer of a Ghanaian ship to the flag of another country where MARPOL is in force, and on the request of that country within ninety days after the transfer has taken place, the Authority shall transmit as soon as possible to the Government of that country a copy of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk carried by the ship before the transfer and, a copy of the ship's most recent survey report.

(2) Where a ship is transferred to the Ghanaian flag, a new International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall only be issued when the Authority is fully satisfied that the ship is in full compliance with the requirements of section 105.

Survey and certification of chemical tanker

112. Despite sections 100 to 111, chemical tankers which have been surveyed and certified by countries where MARPOL is in force in accordance with the provisions of the International Bulk Chemical Code or the Bulk Chemical Code as applicable are deemed to have complied with sections 100 to 111 and the Certificate issued under the International Chemical Code or the Bulk Chemical Code shall have the same force and receive the same recognition as an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk under section 107.

Requirements for minimising accidental pollution

113. (1) This section applies only to a Ghanaian ship certified to carry noxious liquid substances in bulk as identified in Chapter 17 of the International Bulk Chemical Code.

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(2) A Ghanaian ship referred to under subsection (1) shall be designed, constructed, fitted with equipment and operated in a manner which minimises the uncontrolled discharge into the sea of the noxious substances.

(3) A chemical tanker constructed on or after 1st July, 1986 shall comply with the requirements of the International Bulk Chemical Code.

(4) A chemical tanker which is constructed before 1st July, 1986

(a) for which the building contract is placed on or after 2nd November, 1973 and which is engaged on a voyage to a port or terminal under the jurisdiction of a country where MARPOL is in force other than Ghana;

(b) but on or after 1st July, 1983 which is engaged solely on a voyage between a port or a terminal within Ghana shall comply with the requirements of the Bulk Chemical Code as applicable to a ship referred to in paragraph 1.7.2 of the Bulk Chemical Code.

(5) A chemical tanker which is constructed

(a) before 1st July, 1986 for which the building contract is placed before 2nd November, 1973 and which is engaged on a voyage to a port or a terminal under the jurisdiction of a country where MARPOL is in force other than Ghana, and

(b) before 1st July, 1983 and which is engaged on a voyage between a port or a terminal within Ghana,

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

(6) The Authority shall establish appropriate measures based on the guidelines developed by the Organisation for ships other than a chemical tanker carrying Category X, Y or Z substances in bulk as identified in Chapter 17 of the International Bulk Chemical Code, in order to ensure that subsection (2) is complied with.

Shipboard marine pollution emergency plan for noxious liquid substances

114. (1) A Ghanaian ship of one hundred and fifty gross tonnage or more which is certified to carry noxious liquid substances in bulk shall carry on board a ship a marine pollution emergency plan for noxious liquid substances approved by the Authority.

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(2) The plan shall be based on Guidelines developed by the Organisation and written in English.

(3) The plan shall consist of

- (a) the procedure to be followed by the master of the ship or other persons having charge of the ship to report a noxious liquid substance pollution incident as required by section 37 of this Act;
- (b) a list of authorities or persons to be contacted in the event of a noxious liquid substance pollution incident;
- (c) a detailed description of the action to be taken immediately by the persons on board to reduce or control the discharge of noxious liquid substances following the incident; and
- (d) the procedures and point of contact on the ship for co-ordinating shipboard action with national and local authorities in combating the pollution.

(4) In the case of a ship to which section 73 applies, the plan may be combined with the shipboard oil pollution emergency plan required under that section.

(5) Where a Ghanaian ship of one hundred and fifty gross tonnage or more which is certified to carry noxious liquid substances in bulk contravenes subsection (1) an owner or master of the ship shall pay to the Authority an administrative penalty of six hundred penalty units.

Offences

115. (1) Where a ship or the owner or master of the ship, fails to comply with a requirement of this Chapter, a Schedule related to these sections or any Regulations made under this Chapter, the owner and the master of the ship commit an offence and are liable on summary conviction to an administrative penalty of not less than five thousand penalty units and not more than ten thousand penalty units or to a term of imprisonment of not more than fifteen years or to both.

(2) It is a defence for a person charged under subsection (1) to show that all reasonable precautions were taken and all due diligence was exercised to prevent the commission of the offence.

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

Regulations

116. The Minister may, by legislative instrument, make Regulations to prescribe for the following:

- (a) categorisation of substances not included in the Eighth or Tenth Schedule;
- (b) equivalency provisions for gas carriers;
- (c) pumping, piping and unloading arrangements for ships to which this Chapter applies as provided in section 93;
- (d) types of reception facilities and arrangements in cargo unloading terminals as provided in section 96;
- (e) the Cargo Record Book;
- (f) survey and certification of ships exempted from the holding of an International Oil Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;
- (g) survey and certification of chemical tankers; and
- (h) categorisation of oil-like substances.

CHAPTER FOUR

PREVENTION OF POLLUTION BY HARMFUL SUBSTANCES
CARRIED BY SEA IN PACKAGED FORM

Application of Chapter Four of Part Four

117. (1) Unless otherwise provided in this Chapter, this Chapter applies to all Ghanaian ships and other ships in Ghana's maritime jurisdiction carrying harmful substances in packaged form.

(2) For the purpose of identifying harmful substances in packaged form reference shall be made to the guidelines contained in the Fourteenth Schedule 'A'.

Prohibition on carriage, shipment and jettisoning of harmful substances

118. (1) A ship to which this Chapter applies shall not

- (a) carry harmful substances in packaged form except in accordance with these sections; or
- (b) jettison harmful substances in packaged form.

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(2) A person shall not ship or offer for shipment from any Ghanaian port a harmful substance in packaged form except in accordance with this Chapter.

Packing

119. Every package for carrying a harmful substance shall be constructed in a manner and with materials that are adequate to minimise the hazard posed to the marine environment having regard to their specific contents.

Marking and labelling

120. (1) A package 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) A trade name alone shall not be used to identify a harmful substance but the package shall be duly marked by its correct technical name.

(3) Packages that contain marine pollutants shall bear the special marine pollutant mark as specified in the Fourteenth Schedule 'A'.

(4) The identification of a package containing a harmful substance shall be supplemented where possible by any other means including the use of the United Nations number.

(5) A package that contains a harmful substance shall be marked with the correct technical name of the substance and bear a label which together with the technical name shall be identifiable on the package and be capable of surviving at least three months' immersion in the sea.

(6) The durability of the materials used and the surface of the package shall be taken into account in determining the suitability of a mark or label.

(7) Packages containing small quantities of harmful substances may be exempted from the marking requirements in accordance with the specific exemptions provided for in the International Maritime Dangerous Goods Code.

(8) Where a package containing a harmful substance is not durably marked with the correct technical name or durably marked or labelled to indicate that the substance is a marine pollutant, an owner or master of the ship carrying the harmful substance in packaged form shall pay to the Authority an administrative penalty of five hundred penalty units.

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(9) Where a package containing a harmful substance is inadequately marked, an owner or master of the ship carrying the harmful substance in packaged form shall pay to the Authority an administrative penalty of three hundred penalty units.

Documentation

121. (1) In a document which relates to the carriage of a harmful substance by sea where the substances are named, the correct technical name of the substance shall be used and the substances shall be further identified by the addition of the words “MARINE POLLUTANT”.

(2) An owner or master of a ship who contravenes subsection (1) shall pay to the Authority an administrative penalty of two hundred penalty units.

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

(4) A shipper that contravenes subsection (3) shall pay to the Authority an administrative penalty of one hundred penalty units.

(5) A ship which carries a harmful substance shall have a special list or manifest that sets out the harmful substance on board and the location of the substance.

(6) A detailed stowage plan that sets out the location of harmful substances on board may be used instead of the special list or manifest referred to in subsection (5).

(7) A copy of the special list, manifest or detailed stowage plan shall be retained on shore by the owner of the ship or the owner’s representative until the harmful substance is unloaded and another copy shall be made available before departure of the ship to the Authority.

(8) An owner or master of a ship who contravenes subsection (5) or (7) shall pay to the Authority an administrative penalty of one hundred penalty units.

(9) Where a ship carries a special list, manifest, or detailed stowage plan as required for the carriage of dangerous goods by the Safety Convention, the document required for the carriage of a harmful substance under this section may be combined with that for dangerous goods and a distinction shall be made between the dangerous goods and harmful substances.

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(10) In this section “documents” include information made available through the use of electronic data processing and electronic data interchange transmission techniques as an aid to paper documentation.

Stowage

122. A harmful substance shall be properly stowed and secured to minimise the hazards to the marine environment without impairing the safety of the ship and the persons on board the ship.

Quantity limitations

123. (1) The Authority may for sound scientific and technical reasons prohibit the carriage of specified harmful substances or limit the quantity of those substances which may be carried aboard a ship.

(2) In limiting the quantity of a harmful substance which may be carried, the Authority shall give consideration to the size, construction and equipment of the ship, as well as the packaging and inherent nature of the substance.

Regulations

124. The Minister may, by legislative instrument, make Regulations to prescribe the

- (a) detailed requirements on packing, marking, labelling, documentation, stowage, quantity limitations, and exceptions for preventing or minimising pollution of the marine environment in accordance with the International Maritime Dangerous Goods Code;
- (b) terms and conditions under which
 - (i) a ship to which this Chapter applies may carry, or
 - (ii) a person may ship or offer for shipment, a harmful substance in packaged form;
- (c) measures to be taken based on the physical, chemical and biological properties of a harmful substance to regulate the washing of leakages overboard; and
- (d) inspections to be made by the Authority or a person authorised by the Authority, of a ship to which this Chapter applies to ensure compliance with the provisions on harmful substances caused by sea in packaged form.

Exceptions

125. (1) This Chapter does not apply to ships, stores and equipment.

(2) Section 118 (1) (b) does not apply where the jettisoning of harmful substances in packaged form is necessary to secure the safety of the ship or save life at sea.

(3) A ship to which this Chapter applies shall comply with the measures referred to in section 124 (c) if the compliance will not impair the safety of the ship and the lives of persons on board the ship.

Offences

126. (1) An owner, a master or an agent of a ship that accepts goods for carriage by sea in contravention of section 118 (1) (a) commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than ten thousand penalty units or to a term of imprisonment of not more than ten years or to both.

(2) Subject to section 125 (2), a person who jettisons harmful substances in packaged form commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than ten thousand penalty units and in addition shall pay the cost which may be incurred in connection with the recovery of that substance.

(3) A person who fails to take the measures for the regulation of the washing of leakages overboard based on the physical, chemical and biological properties of harmful substances, commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than ten thousand penalty units, unless that person can show that compliance with the measures will impair the safety of the ship and the lives of the persons on board the ship.

(4) It is a defence for a person charged with an offence under this section to show that that person 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 by a person but for the operation of subsection (4) as a result of the act or default of some other person, that other person shall be deemed to have committed the offence, and that other person may be charged and convicted of the offence whether proceedings are taken against the first mentioned person or not.

Interpretation

127. For the purposes of this Chapter,
“harmful substances” are substances identified as marine pollutants in the International Maritime Dangerous Goods Code and includes empty packaging that have been used previously for the carriage of those substances unless adequate precautions have been taken to ensure that they do not contain any residue that is harmful to the marine environment;
“International Maritime Dangerous Goods Code” means the International Maritime Dangerous Goods Code adopted by the Organisation by Resolution A. 716 (17) as amended periodically by the Maritime Safety Committee of the Organisation;
“packaged form” means the forms of container specified for harmful substances in the International Maritime Dangerous Goods Code; and
“Safety Convention” means the International Convention for the Safety of Life at Sea 1974.

CHAPTER FIVE

PREVENTION OF POLLUTION BY SEWAGE FROM SHIPS

Application of Chapter Five of Part Four

128. (1) Subject to this section, sections 128 to 143 apply to Ghanaian ships which are
- (a) new and weigh four hundred gross tonnage or more;
 - (b) new and weigh less than four hundred gross tonnage and are certified to carry more than fifteen persons;
 - (c) existing ships of four hundred gross tonnage or more, two years after the commencement of this Act; and
 - (d) existing ships of less than four hundred gross tonnage which are certified to carry more than fifteen persons, two years after the commencement of this Act.
- (2) On the commencement date of this Act, this Chapter shall apply to all existing Ghanaian ships to the extent provided and as may be prescribed.
- (3) This Chapter also applies to foreign ships in Ghana’s maritime jurisdiction to which Annex IV of MARPOL applies.

Surveys

129. (1) A Ghanaian ship which is required to comply with these provisions for the prevention of pollution by sewage from ships is subject to the following surveys:

- (a) an initial survey before the ship is put in service or before the International Sewage Pollution Prevention Certificate required under section 131 is issued for the first time and the survey shall
 - (i) include a complete survey of the structure, equipment, systems, fittings, arrangements and materials of the ship; and
 - (ii) ensure that the structure, equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of this Chapter;
- (b) a renewal survey at five-year intervals or a lesser interval that the Authority may specify to ensure that the structure, equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of this Chapter;
- (c) an additional survey which may be general or partial, carried out when 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 the equipment covered by these sections to ensure that
 - (i) the necessary repairs and renewals have been effectively made,
 - (ii) the materials and workmanship of the repairs or renewals are satisfactory, and
 - (iii) the ship complies in all respects with the requirements in this Chapter.

(2) The Authority shall establish the appropriate measures for a ship which is not subject to subsection (1) to ensure that these provisions on pollution by sewage are complied with.

(3) Subject to subsection (4), the surveys of ships shall be carried out by surveyors appointed under section 254 (2) of the Ghana Shipping Act, 2003 (Act 645).

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(4) Despite subsection (3), the Authority may entrust the surveys under this section to surveyors appointed for the purpose or to organisations recognised by the Authority but the Authority shall

- (a) fully guarantee that the survey is complete and efficient, and
- (b) undertake the necessary arrangements to satisfy this obligation.

(5) A surveyor or an organisation to whom a survey is entrusted under subsection (2) shall as a minimum be empowered by the Authority to

- (a) require corrective action or repairs to a ship; and
- (b) carry out surveys and inspections if requested by the appropriate authority of a country where MARPOL is in force or a port State.

(6) The Authority shall give notice to the Organisation of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognised organisations for circulation to countries where MARPOL is in force for the information of their officers.

(7) Where a nominated surveyor or recognised organisation determines that the condition of a ship or its equipment

- (a) does not correspond substantially with the particulars in the International Sewage Pollution Prevention Certificate, or
- (b) that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment

the surveyor or organisation shall immediately ensure that corrective action is taken and shall within twenty-four hours or a lesser time as is appropriate notify the Authority.

(8) If the corrective action required in subsection (7) is not taken

- (a) the International Sewage Pollution Prevention Certificate of the ship shall be withdrawn,
- (b) the Authority shall ensure that the ship does not sail until it can proceed to the nearest appropriate repair yard available without presenting an unreasonable threat or harm to the marine environment, and
- (c) the owner or master of the ship shall pay to the Authority an administrative penalty of five hundred penalty units.

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(9) Where the ship is in the port of another country where MARPOL is in force, the port State authorities shall be notified immediately.

Regulations

130. (1) The Minister may, by legislative instrument, make Regulations to prescribe requirements on board a ship 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 Sewage Pollution Prevention Certificates issued by the Authority;
- (e) existing Ghanaian ships to comply with this Chapter including the issue of Sewage Pollution Prevention Certificates to these ships;
- (f) rate of discharge of sewage from holding tanks; and
- (g) other standards, conditions and requirements regulating or prohibiting discharge of sewage of ships that are appropriate for the preservation of human health and the marine environment and the conservation of natural resources in the marine environment.

(2) The Regulations shall be made in accordance with standards and guidelines developed by the Organisation.

Issue of International Sewage Pollution Prevention Certificate

131. (1) An International Sewage Pollution Prevention Certificate shall be issued to a Ghanaian ship after a survey in accordance with section 129.

(2) The Certificate shall be issued only if the applicable requirements of the Regulations referred to in section 130 are complied with.

(3) The International Sewage Pollution Prevention Certificate shall be issued or endorsed either by the Authority or a person or an organisation authorised by the Authority.

(4) The Authority is fully responsible for the Certificate even where the Certificate is issued by a person or organisation authorised by the Authority.

Issue or endorsement of certificate by a country where MARPOL is in force

132. (1) The Authority may, at the request of the government of a country where MARPOL is in force, cause a ship to be surveyed and if the Authority is satisfied that the provisions of this Chapter have been complied with, issue or authorise

- (a) the issue of an International Sewage Pollution Prevention Certificate to the ship where appropriate, and
- (b) the endorsement of that Certificate.

(2) The International Sewage Pollution Prevention Certificate issued under subsection (1) shall contain a statement to the effect that the Certificate has been issued at the request of the government of a country where MARPOL is in force and a copy of the certificate together with a copy of the survey report shall be transmitted as early as possible to the government which requested the survey.

(3) An International Sewage Pollution Prevention Certificate, issued by another country where MARPOL is in force in respect of a Ghanaian ship at the request of the Authority, has the same force and the same recognition in Ghana as an International Sewage Pollution Prevention Certificate issued under this Chapter.

(4) An International Sewage Pollution Prevention Certificate shall only be issued to a ship registered in a country where MARPOL is in force.

Form of International Sewage Pollution Prevention Certificate

133. An International Sewage Pollution Prevention Certificate shall be in the form specified in the Fourteenth Schedule 'B'.

Duration or validity of International Sewage Pollution Prevention Certificate

134. (1) An International Sewage Pollution Prevention Certificate is valid for five years from the date of issue.

(2) Despite subsection (1), where a renewal survey is completed within three months before the expiry date of an existing Certificate, the new Certificate is valid from the date of the completion of the renewal survey for a period of not more than five years from the date of expiry of the existing Certificate.

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(3) Where the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate is valid from the date of completion of the renewal survey for five years from the date of expiry of the existing Certificate.

(4) Where a renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate is valid from the date of completion of the renewal survey for five years from the date of completion of the renewal survey.

(5) Where 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 person or organisation authorised by the Authority may endorse the existing Certificate and the Certificate shall be accepted as valid for a further period which shall not be more than five months from the expiry date.

(6) Where a Ghanaian ship is not within a port in which it is to be surveyed on the date of expiry of the Certificate issued to that ship under this Chapter, the Authority or any person authorised by the Authority for the purpose, may extend the validity of that Certificate in the first instance by a period of

- (a) not more than one month from the initial date of expiry, and
- (b) up to a maximum of three months in the aggregate.

(7) An extension shall only be granted

- (a) to enable the ship to complete its voyage to the port in which the ship is to be surveyed, and
- (b) where the grant of the extension appears proper and reasonable.

(8) A ship to which an extension is granted is not on its arrival in the port in which it is to be surveyed, entitled by virtue of the extension to leave that port without having a new certificate.

(9) Where a renewal survey is completed, the new Certificate is valid for five years from the date of the expiry of the existing Certificate.

(10) A Certificate issued to a ship engaged on a short voyage which has not been extended under this section may be extended by the Authority for a period of up to one month from the date of expiry stated on the Certificate.

(11) An International Sewage Pollution Prevention Certificate ceases to be valid

- (a) if the surveys required to be carried out under section 129 are not completed within the periods specified; or

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(b) on the transfer of a ship to the flag of another country unless as provided in subsection (7).

(12) A new Certificate may be issued on the transfer of a ship to the flag of another country, only where the competent authority issuing the new Certificate is fully satisfied that

- (a) the ship fully meets the requirements of section 129, and
- (b) no change has been made in the structure, equipments, systems, fittings, arrangements or materials of the ship.

(13) Where a Ghanaian ship is transferred to another country where MARPOL is in force, the Authority shall within three months after the transfer if required, transmit to the Government of the country concerned,

- (a) a copy of the International Sewage Pollution Prevention Certificate carried by the ship before the transfer, and
- (b) if available, a copy of the relevant survey reports.

Discharge controls

135. (1) Subject to this section, sewage shall not be discharged into the sea unless

- (a) the sewage has been comminuted and disinfected using a system approved by the Authority at a distance of more than three nautical miles from the nearest land,
- (b) the sewage where it has not been comminuted and disinfected is discharged periodically into the sea at a moderate rate from a ship which is on a voyage and proceeding at not less than four knots at a distance of more than twelve nautical miles from holding tanks where the sewage is stored,
- (c) the rate of discharge is approved by the Authority based on standards developed by the Organisation, or
- (d) the ship has in operation an approved sewage treatment plant which has been certified by the Authority to satisfy the operational requirements referred to in section 129 (1)
 - (a) (i), and
 - (i) the test results of the plant are set out in the International Sewage Pollution Prevention Certificate of the ship, and
 - (ii) the effluent does not produce visible floating solids, or does not cause discoloration of the surrounding water.

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(2) Where sewage is mixed with wastes or waste water covered by other provisions of this Act, the requirements of those provisions shall be complied with in addition to the requirements of this Chapter.

Public notice of standards

136. (1) The sewage discharge standards provided in section 135 and the applicable Regulations referred to in section 130 shall be posted in a conspicuous place on board a Ghanaian ship to which this Chapter applies.

(2) The crew of those ships shall undergo the necessary training to comply with the standards.

(3) An owner or master of a ship who

- (a) contravenes subsection (1) shall pay to the Authority an administrative penalty of two hundred penalty units; or
- (b) contravenes subsection (2) shall pay to the Authority an administrative penalty of one thousand penalty units.

Exceptions

137. The discharge standards set out in section 135 and the applicable Regulations referred to in section 130, do not apply

- (a) if discharge of sewage from the ship is necessary to secure the safety of a ship and secure the lives of those on board or save life at sea; or
- (b) where the discharge is as a result of damage to the ship or its equipment and reasonable steps have been taken before and after the damage to prevent or minimise the discharge.

Sewage reception facilities

138. A port or terminal in Ghana shall provide accessible and adequate sewage reception facilities.

Standard discharge connections

139. The pipes of a sewage reception facility and a ship's discharge pipeline shall both be fitted with a standard discharge connection in accordance with the table in the Fifteenth Schedule for the purpose of connection of the two sets of pipe.

Inspection of sewage reception facility

140. (1) A sewage reception facility shall be inspected at least once a year by the Authority or a person designated by the Authority for the purpose to ensure that the requirements of the provisions on prevention of pollution by sewage from ships are complied with.

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(2) Where the requirements of subsection (1) are not complied with, the Authority may serve a notice on the owner, occupier, or operator of the facility requiring that owner, occupier or operator, to comply with the requirements within the period the Authority may specify.

(3) A person who fails to comply with a notice issued under subsection (2) shall pay to the Authority an administrative penalty of one thousand penalty units and five hundred penalty units for each month that the default continues.

(4) It is a defence for a person charged under subsection (3) to show that that person took all reasonable steps and exercised all due diligence to comply with the requirements of subsection (1).

Notice of inadequate sewage reception facilities

141. The Authority shall notify the Organisation of all cases where a sewage reception facility in Ghana, or a sewage reception facility provided by another country where MARPOL is in force is alleged to be inadequate.

Offences

142. (1) Where a ship or the owner or master of a ship fails to comply with any requirement of this Chapter or any Schedule related to these sections or Regulations made under section 130, the owner and the master of the ship commit an offence and each of them is liable on summary conviction to a fine of not less than five hundred penalty units and not more than five thousand penalty units.

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

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

Interpretation

143. For the purposes of this Chapter,
“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the International Sewage Pollution Prevention Certificate;

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“existing ship” means a ship which is not a new ship;

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

“new ship” means a ship

- (a) for which the building contract is placed, or
- (b) 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 that date of entry into force of this chapter, or
- (c) the delivery of which is three years or more after the date of entry into force of this Act;

“person” means member of the crew and passengers;

“scupper” means an opening in the side of a ship at the level of the deck or upper floor to allow water to run off it into the sea; and

“sewage” means

- (a) drainage and other wastes from any form of toilet or urinal;
- (b) drainage from medical premises such as a dispensary or sick bay through wash basins, wash tubs and scuppers located in the premises;
- (c) drainage from spaces containing living animals; or
- (d) other waste waters when mixed with the drainage earlier referred to.

CHAPTER SIX

PREVENTION OF POLLUTION BY GARBAGE FROM SHIPS

Application of Chapter Six of Part Four

144. Unless expressly provided otherwise, this Chapter applies to

- (a) a Ghanaian ship wherever it may be,
- (b) any other ship while it is in Ghana’s maritime jurisdiction, and
- (c) an offshore installation.

Special areas

145. In this Chapter, unless the context otherwise requires

“Antarctic area” means the Sea area south of latitude 60° S;

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- “Baltic Sea area” means the Baltic Sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance of the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57° 44.8 N;
- “Black Sea area” means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41° N;
- “Gulfs area” means the sea area located north-west of the rhumb line between Ras al Hadd (22° 30’N, 59° 48’E) and Ras al Fasteh (25° 04’N, 61° 25’E);
- “Mediterranean Sea area” means the Mediterranean Sea proper and comprises among others the Gulfs and Sea within the Mediterranean Sea with the boundaries between the Mediterranean and the Black Sea constituted by the 41° N parallel and bounded to the West by the straits of Gibraltar at the Meridian 5° 36 ‘W;
- “North Sea area” means the North Sea proper and comprises the seas within the North Sea with the boundary between
- (a) the North Sea southwards of Latitude 62° N and Eastwards of longitude 4° W;
 - (b) the Skagerrak, the southern limit which is determined east of the Skaw by latitude 57° 44.8"N; and
 - (c) the English Channel and its approaches eastwards of longitude 5° W and the northwards of latitude 48° 30N;
- “Red Sea area” means the Red Sea proper and comprises among others the Gulfs of Suez and Aqaba bounded at the south by rhumb line between Ras Si Ane, (12 ° 28, 5’ N, 43° 19.6’ E) and Husn Murad (12° 40. 4N, 43° 30.2’ E);
- “the Special areas” include 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 comprising the Gulf of Mexico and the Caribbean Sea; and
- “Wider Caribbean Region” means the Gulf of Mexico and Caribbean Sea proper comprising among others the bays and seas in the Gulf of Mexico and the Caribbean Sea proper and that portion of the Atlantic Ocean within the boundary constituted by the 30° N parallel from Florida eastwards to 77° 30 W’ meridian, from there a rhumb line

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to the intersection of 20° N parallel and 59° W meridian, from there a rhumb line to the intersection of 7° 20 N parallel and 50° W meridian, from there a rhumb line drawn south-westerly to the eastern boundary of French Guyana.

Prohibition of disposal of plastic wastes into the sea

146. (1) A person shall not dispose of into the sea
- (a) within a special area,
 - (b) outside a special area, or
 - (c) anywhere else
- plastic waste of any kind.
- (2) For the purposes of subsection (1), plastic waste includes
- (a) synthetic ropes;
 - (b) synthetic fishing nets;
 - (c) plastic garbage bags; and
 - (d) incinerator ashes from plastic products which contain toxic or heavy metal residue.

Disposal of specified garbage outside special areas

147. (1) A person shall not dispose into the sea outside a special area
- (a) within twenty-five nautical miles from land, dunnage, lining and packing materials which float; or
 - (b) within twelve nautical miles from land, food waste and other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse if the waste or garbage
 - (i) has not been passed through a comminuter or grinder; and
 - (ii) is not capable of passing through a screen with openings of not more than twenty-five millimetres.
- (2) Despite subsection (1) (b) and subject to section 149, a person shall not dispose into the sea outside a special area, any food waste or other garbage of the kind described in subsection 1 (b), within three nautical miles from the land.

Disposal of garbage from offshore installation or storage facility

148. (1) Subject to subsection (2), a person shall not dispose of garbage from an offshore installation or storage facility engaged in the exploration, exploitation, and associated offshore processing of sea-bed mineral resources or from a ship which is alongside or within five hundred metres of the offshore installation or storage facility.

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- (2) Food waste may be disposed of from
- (a) an offshore installation or a storage facility,
 - (b) a ship which is alongside or within five hundred metres of the offshore installation or storage facility

if the food waste or other garbage is

- (c) passed through a comminuter or grinder,
- (d) capable of passing through a screen with openings of not more than twenty-five millimetres; and
- (e) discharged beyond twelve nautical miles from land.

Disposal of garbage within a special area

149. (1) A person shall not dispose into the sea within a special area
- (a) garbage including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;
 - (b) all plastics including synthetic ropes, synthetic fishing nets and plastic garbage bags, incinerator ashes from plastic products which contain toxic or heavy metal residues.

(2) Except as provided in section 152, a person may dispose of into the sea within a special area food waste if the disposal is done beyond twelve nautical miles from land.

Disposal of waste within the Wider Caribbean Region

150. A person may dispose of food waste into the sea within the Wider Caribbean Region if the food waste is

- (a) passed through a comminuter or a grinder;
- (b) capable of passing through a screen with openings of not more than twenty-five millimetres; and
- (c) discharged beyond three nautical miles from land.

Mixed wastes

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

Special provision for Antarctic area

152. A Ghanaian ship shall not enter the Antarctic area if it
- (a) does not have sufficient capacity on board to retain garbage while operating in the area, and
 - (b) has not concluded arrangements to discharge the garbage at a reception facility after leaving the area.

Exceptions

153. This Chapter does not apply to

- (a) the disposal of garbage from a ship where the disposal is necessary to secure the safety of the ship and persons on board the ship or for saving life at sea;
- (b) the escape of garbage resulting from damage to a ship or its equipment if 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 if reasonable precautions have been taken to prevent the loss.

Garbage reception facilities

154. (1) A port or a terminal operator shall provide adequate and accessible garbage reception facilities.

(2) A port or terminal operator that contravenes subsection (1) shall pay to the Authority an administrative penalty of one thousand penalty units and five hundred penalty units for each month that the default continues.

Inspection of reception facilities

155. The Authority or a person designated by the Authority shall periodically inspect a reception facility to ensure that they meet the requirements of the provisions on pollution by garbage from a ship.

Notice of inadequate facilities

156. Where the Authority becomes aware that reception facilities in Ghana or in any other country where MARPOL is in force are alleged to be inadequate, the Authority shall notify the Organisation.

Placards

157. (1) A ship of twelve metres or more in length shall display a notice which informs the crew and passengers of the disposal requirements of sections 146, 149 and 150 as applicable.

(2) The notice shall be

- (a) in English for Ghanaian ships, and
- (b) in English, French or Spanish for ships which are engaged in international voyages to ports or offshore terminals in countries where MARPOL is in force.

Garbage management plan

158. (1) A ship of four hundred gross tonnage or more and a ship which is certified to carry fifteen persons or more shall have a garbage management plan which the crew of the ship shall follow.

(2) The garbage management plan shall

- (a) provide written procedures for the collection, storage, processing and disposal of garbage and the use of the garbage equipment on board;
- (b) designate the person responsible for carrying out the plan; and
- (c) be written in English in accordance with the guidelines developed by the Organisation.

(3) Where a ship of four hundred gross tonnage or more or a ship which is certified to carry fifteen persons or more does not have a garbage management plan, an owner or master of the ship shall pay to the Authority an administrative penalty of five hundred penalty units.

Garbage record book

159. (1) A ship of four hundred gross tonnage or more and a ship which is certified to carry fifteen persons or more which is engaged in a voyage to a port or an offshore terminal of a country where MARPOL is in force and an offshore installation or storage facility engaged in exploration and exploitation of the sea-bed shall have a Garbage Record Book.

(2) The Garbage Record Book shall be

- (a) in the form specified in the Sixteenth Schedule,
- (b) kept on board the ship at a place that makes it available for inspection, and
- (c) preserved for a period of two years after the last entry is made on the record.

(3) The Officer-in-Charge of a ship shall record each discharge operation or completed incineration in the Garbage Record Book and sign the record on the date of the incineration.

(4) An Officer-in-Charge of a ship who contravenes subsection (3) shall pay to the Authority an administrative penalty of two hundred penalty units for each entry that should have been recorded.

(5) The entry of each incineration or discharge shall include

- (a) the date and time of the incineration or discharge;
- (b) the position of the ship;
- (c) description of the garbage; and
- (d) the estimated amount of garbage incinerated or discharged.

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(6) Each completed page of the Garbage Record Book shall be signed by the master of the ship.

(7) In the event of a discharge, any escape or accidental loss of garbage referred to under section 153, an entry shall be made in the Garbage Record Book of the circumstances of and the reasons for the loss.

(8) An entry in the Garbage Record Book of a country where MARPOL is in force which is made in an official national language of that State is sufficient evidence of the facts contained in the entry.

(9) An owner or master of a ship or an offshore installation or storage facility who contravenes subsection (1) shall pay to the Authority an administrative penalty of five hundred penalty units.

Waiver

160. The Authority may waive the requirements of having a Garbage Record Book for a ship if the ship is

- (a) certified to carry fifteen persons or more; or
- (b) engaged on a voyage of one hour or less in duration.

Inspection of Garbage Record Book

161. (1) The Authority or a person authorised by the Authority may inspect the Garbage Record Book on board

- (a) a Ghanaian ship to which this Chapter applies; and
- (b) any other ship to which this Chapter applies while the ship is in a port or offshore terminal in Ghana.

(2) The competent authority of the government of a country where MARPOL is in force may

- (a) inspect the Garbage Record Book on board a Ghanaian ship to which this Chapter applies while the ship is in a port or offshore terminal,
- (b) make a copy of an entry in the Garbage Record Book, and
- (c) require the master of the ship to certify that the copy is a true copy of the entry.

(3) A copy of the Garbage Record Book certified by the master of the ship as a true copy of an entry in the Garbage Record Book is admissible in any judicial proceedings as evidence of the facts stated in the entry.

(4) The inspection of the Garbage Record Book and the taking of a certified copy by the competent authority shall be carried out as expeditiously as possible to avoid undue delay to the ship.

Regional co-operation

162. The Authority shall co-operate with other States of the West African sub-region on issues related to land disposal sites and facilities including

- (a) the establishment of consistent waste handling, recycling and minimisation, disposal and treatment standards and procedures, and
- (b) the promotion of the development of sub-regional waste disposal and treatment standards and procedures.

Notification of garbage disposal prohibitions

163. The Authority shall, within ninety days after the commencement of this Act, give notice to the owners and agents of Ghanaian ships to which this Chapter applies, of the garbage discharge prohibitions and restrictions provided for in this Chapter.

Offences

164. (1) Where a ship does not comply with any requirement of this Chapter the owner and the master of the ship each commit an offence and are liable on summary conviction to a fine of not less than five hundred penalty units and not more than five thousand penalty units or to a term of imprisonment of not more than five years or to both.

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

(3) Where a person commits an offence or would have committed an offence under this section as a result of the act or omission of some other person but for the operation of subsection (2), that other person

- (a) is deemed to have committed the offence; and
- (b) may be charged with and convicted of the offence whether or not proceedings are instituted against the first person.

Regulations

165. The Minister may, by legislative instrument, make Regulations to prescribe criteria for determining the

- (a) adequacy of garbage reception facilities at ports and terminals,
- (b) measures to be adopted to ensure adequacy and accessibility without causing undue delay to ships; and
- (c) any other matter necessary for the effective implementation of the provisions on pollution by garbage from ships.

CHAPTER SEVEN

PREVENTION OF AIR POLLUTION FROM SHIPS

Application of Chapter Seven of Part Four

166. This Chapter applies to ships which are expressly not exempted in a particular section.

Exceptions on application

167. This Chapter does not apply to an emission

- (a) necessary to secure the safety of a ship or save lives at sea, or
- (b) which results from damage to a ship or its equipment
 - (i) if all reasonable precautions are taken after the occurrence of the damage or discovery of the emission for the purpose of preventing or minimising the emission,
 - (ii) except where the owner or the master acted either with intent to cause damage or recklessly and with knowledge that damage was likely to result.

Equivalents

168. (1) The Authority may allow any fitting, material, appliance or apparatus to be fixed to a ship as an alternative to that required by this Chapter if the fitting, material, appliance or apparatus is at least as effective as those stipulated in this Chapter.

(2) Where the Authority allows a fitting, material, appliance or apparatus to be used as an alternative to those stipulated, the Authority shall communicate to the Organisation for circulation to countries where MARPOL is in force, particulars of the alternative for their information and appropriate action.

Surveys and inspection

169. (1) A Ghanaian ship of four hundred gross tonnage or more or an offshore installation and a storage facility are subject to the following surveys:

- (a) an initial survey to ensure that the equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of this Chapter before the ship, rig or platform is put into service or before the Interna-

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tional Air Pollution Prevention Certificate required under section 173 is issued for the first time ;

- (b) a renewal survey at five year intervals or a lesser interval that the Authority may specify to ensure that the equipment, systems, fittings, arrangements and material of the ship fully comply with the requirements of this Chapter;
- (c) an intermediate survey in place of one of the annual surveys specified in paragraph (d) within three months before or after the second anniversary date of putting the ship, rig or platform into service or within three months before or after the third anniversary date of the Certificate,
 - (i) to ensure that the equipment and arrangements fully comply with the applicable requirements of this Chapter and are in good working order; and
 - (ii) which shall be endorsed on the Certificate issued under section 172 (1),
- (d) an annual survey within three months before or after each anniversary date of the Certificate which shall include a general inspection of the equipment, systems, fittings, arrangements and materials to ensure that
 - (i) they have been maintained in good condition that conforms to the provisions of this Chapter, and
 - (ii) they remain satisfactory for the service for which the ship is intended,

and this survey shall be endorsed on the Certificate issued under section 172 (1), and

- (e) an additional survey which is either general or partial 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 the ship's equipment as required by this Chapter to ensure that
 - (i) the necessary repairs and renewals have been effectively made,
 - (ii) the materials and workmanship of the repairs or renewals are in all respects satisfactory, and
 - (iii) the ship complies with the requirements of the provisions on air pollution from a ship.

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(2) The Authority shall establish appropriate measures for ships which are not subject to subsection (1) to ensure that these provisions on air pollution from ships are complied with.

(3) Subject to subsection (4), a survey of a ship as regards the enforcement of this Chapter shall be carried out by a surveyor appointed under section 254 (2) of the Ghana Shipping Act, 2003 (Act 645).

(4) The Authority may appoint a surveyor or recognised organisation to undertake a survey under this section.

(5) A surveyor or an organisation appointed by the Authority to conduct a survey shall as a minimum be empowered to

- (a) require corrective action or repairs to a ship, and
- (b) carry out a survey and an inspection if requested by the appropriate authority of the country where MARPOL is in force.

(6) The Authority shall give notice to the Organisation of the specific responsibilities and conditions of the authority delegated to the appointed surveyor or recognised organisation for circulation and the Organisation shall circulate the notice to countries where MARPOL is in force.

(7) The survey of engines and equipment to ensure compliance with the Regulations made under section 182 shall be in accordance with the Nitrogen Oxide Technical Code developed by the Organisation.

- (8) In this Chapter, unless the context otherwise requires, “anniversary date” means the day and month of each year which will correspond to the date of expiry of the International Air Pollution Prevention Certificate.

Corrective action

170. (1) Where an appointed surveyor or a recognised organisation determines that

- (a) the condition of a ship or its equipment does not correspond substantially with the particulars in the International Air Pollution Prevention Certificate, or
- (b) the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment,

the surveyor or organisation shall immediately ensure that the owner or master of the ship takes the requisite corrective action and the surveyor or organisation shall give notice of this to the Authority.

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(2) An operator of a port or terminal facility that contravenes subsection (1) shall pay to the Authority an administrative penalty of one thousand and five hundred penalty units for each month that the default continues.

(3) Where the corrective action in subsection (1) is not taken as required

- (a) the International Air Pollution Prevention Certificate shall be withdrawn,
- (b) the Authority shall ensure that the ship does not sail until it can proceed to sea or leave port to proceed to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment, and
- (c) the owner or master of the ship shall pay to the Authority an administrative penalty of five hundred penalty units.

(4) Where a ship affected by a determination under subsection (1) is in a port of a country where MARPOL is in force, the port authority of that country shall

- (a) be notified immediately; and
- (b) give the officer, surveyor or recognised organisation the necessary assistance to carry out its obligations under this section.

Maintenance of equipment of ship and notice of change of condition

171. (1) The owner and the master of a ship shall maintain the equipment of the ship at all times to comply with this Chapter and a change shall not be made to the equipment, systems, fittings arrangement, or materials covered by the survey under section 169 without the express approval of the Authority.

(2) An owner or master of a ship who contravenes subsection (1) shall pay to the Authority an administrative penalty of five hundred penalty units.

(3) Where

- (a) an accident occurs to a ship, or
- (b) a defect which substantially affects the efficiency or completeness of the ship's equipment is discovered,

the owner and master of the ship shall as soon as practicable after the accident or discovery of the defect give a written notice to the Authority describing fully the particulars of the accident or defect.

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- (4) A copy of the written notice shall also be given to
- (a) an appointed surveyor, or
 - (b) recognised organisation

responsible for the issue of the International Air Pollution Prevention Certificate to the affected ship.

(5) An owner or master of a ship who fails to report an accident of the ship or a defect of the ship to the Authority in contravention of subsection (3) shall pay to the Authority an administrative penalty of three hundred penalty units.

Issue of International Air Pollution Prevention Certificate

172. (1) The Authority shall issue an International Air Pollution Prevention Certificate after an initial, intermediate survey conducted in accordance with the provisions of section 169 to

- (a) a ship engaged in a voyage to a port or offshore terminal of a country where MARPOL is in force, and
- (b) an offshore installation or storage facility in waters under the sovereignty or jurisdiction of a party to the Protocol of 1997.

(2) A ship constructed before the entry into force of the 1997 Protocol in Ghana shall be issued with an International Air Pollution Prevention Certificate in accordance with subsection (1) not later than the first scheduled dry docking after the entry into force of the Protocol and in any case not later than three years after the entry into force of the Protocol of 1997.

Issue of Certificate at country's request

173. (1) The Authority may, at the request of the government of a country where the 1997 Protocol is in force, cause a ship to be surveyed and if satisfied that the ship complies with the provisions on air pollution issue or authorise the issue of an International Air Pollution Prevention Certificate to the ship.

(2) The International Air Pollution Prevention Certificate issued shall contain a statement to the effect that it has been issued at the request of the government of a country where the Protocol of 1997 is in force and a copy of the Certificate together with a copy of the survey report shall be transmitted to the government requesting the survey as soon as possible.

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(3) An International Air Pollution Prevention Certificate issued by a country where the Protocol of 1997 is in force in respect of a Ghanaian ship at the request of the Authority has the same force and shall receive the same recognition in Ghana as an International Air Pollution Prevention Certificate issued by the Authority under this Chapter.

(4) An International Air Pollution Prevention Certificate shall only be issued to a ship which is registered in a country where the Protocol of 1997 is in force.

Form of International Air Pollution Prevention Certificate

174. An International Air Pollution Prevention Certificate shall be in the form specified in the Seventeenth Schedule.

Duration and period of validity of Certificate

175. (1) An International Air Pollution Prevention Certificate is valid for five years from the date of issue.

(2) Despite subsection (1), where a renewal survey is completed

- (a) within three months

- (i) before the expiry date of the existing certificate;

- (ii) after the expiry date of the existing certificate; or

the new Certificate is valid from the date of completion of the renewal survey to the expiry date of the existing Certificate; and

- (b) more than three months before the expiry date of the existing Certificate the new Certificate is valid for five years from the date of completion of the renewal survey.

(3) Where a renewal survey is completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, a person or organisation authorised by the Authority may endorse the existing Certificate and the endorsed Certificate is valid for a further period which shall not exceed five months from the expiry date.

(4) Where a Ghanaian ship is not in a port in which the ship is to be surveyed on the date of expiry of the International Air Pollution Prevention Certificate issued to that ship under this Act, the Authority may extend the validity of that Certificate.

(5) The extension of the period of validity shall be granted only

- (a) for the purpose of enabling the ship to complete its voyage to a port in Ghana or to the port in which it is to be surveyed, and

- (b) in cases where it appears proper and reasonable to grant the extension.

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(6) The extension shall not exceed three months and a ship to which an extension is granted is not entitled on arrival in Ghana or the port in which it is to be surveyed to leave without having obtained a new International Air Pollution Prevention Certificate.

(7) Where a renewal survey is completed after an extension the new Certificate is valid for five years from the date of expiry of the existing Certificate before the extension was granted.

(8) Where a certificate issued to a ship engaged on a short voyage is not extended under subsections (4), (5) and (6) the Authority may extend the certificate for a period of grace of up to one month.

(9) Where the Authority grants an extension for a grace period and the renewal survey is completed after the grace period, the new Certificate is valid for five years from the date of expiry of the existing Certificate before the extension was granted.

(10) In special circumstances determined by the Authority, a new Certificate

- (a) may not be dated from the date of expiry of the existing Certificate, and
- (b) is valid for five years from the date of completion of the renewal survey.

(11) Where an annual or intermediate survey is completed before the period specified in section 169

- (a) the anniversary date shown on the Certificate shall be amended by endorsement to a date which is not more than three months later than the date on which the survey was completed;
- (b) the annual or intermediate survey required under section 169 shall be completed at the intervals specified in that section using the new anniversary date; and
- (c) the expiry date may remain unchanged if one or more annual or intermediate surveys, as appropriate, are carried out to ensure that the maximum intervals between the surveys specified by section 169 are not exceeded.

Invalidity of Certificate

176. (1) An International Air Pollution Prevention Certificate ceases to be valid

- (a) if an inspection or a survey required under section 169 is not carried out within the period specified,

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- (b) if the International Air Pollution Prevention Certificate is not endorsed in accordance with section 169, or
- (c) on the transfer of the ship to the flag of another country.

(2) The competent authority for a country may issue a new Certificate to a ship on the transfer of the ship to that country if the competent authority is fully satisfied that

- (a) the ship meets the requirements of section 169, and
- (b) no change has been made in the structure, equipment, systems, fittings, arrangements or material of the ship.

Transmission of Certificate on transfer of ship

177. Following the transfer of a Ghanaian ship to another country where the Protocol of 1997 is in force, the Authority shall as soon as possible transmit to the government of that country if requested to do so within three months after the transfer has taken place,

- (a) a copy of the International Air Pollution Prevention Certificate carried by the ship before the transfer, and
- (b) if available, a copy of the relevant survey report.

Provision of reception facility

178. (1) An operator of a port or terminal facility as set out in section 68 shall provide adequate reception facilities in accordance with the Regulations made under section 182.

(2) An operator of a port or terminal facility who contravenes subsection (1) shall pay to the Authority an administrative penalty of one thousand and five hundred penalty units for each month that the default continues.

Inspection of reception facility

179. The Authority or a person designated by the Authority for the purpose shall at least once a year inspect a reception facility in Ghana to ensure that it meets with the requirements of this Chapter.

Notice of inadequate facilities

180. The Authority shall give notice to the Organisation where a reception facility in Ghana or in another country where the Protocol of 1997 is in force is alleged to be inadequate or unusable.

Offences

181. (1) Where a ship or the owner of a reception facility fails to comply with a requirement of this Chapter or any Regulations made by the

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Minister, the owner and the master of the ship commit an offence and each of them is liable on summary conviction to a fine of not less than five hundred penalty units and not more than five thousand penalty units or to a term of imprisonment of not more than five years or to both.

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

Regulations and interpretation

182. (1) The Minister may, by legislative instrument, make Regulations to prescribe the following:

- (a) control of emissions comprising
 - (i) ozone-depleting substances;
 - (ii) nitrogen oxides;
 - (iii) sulphur oxides;
 - (iv) volatile organic compounds;
 - (v) ship board incineration; and
 - (vi) fuel oil quality;

from a ship;

- (b) requirements for offshore installations and storage facilities; and
- (c) provision of reception facilities.

(2) In this Chapter, unless the context otherwise requires, “anniversary date” means the day and month of each year which will correspond to the date of expiry of the International Air Pollution Prevention Certificate.

CHAPTER EIGHT

OIL POLLUTION PREPAREDNESS, RESPONSE AND
CO-OPERATION

Application of Chapter Eight of Part Four to government ships and naval vessels

183. (1) This Chapter does not apply to

- (a) a Ghana Government ship on government non-commercial service, and

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(b) a warship, naval auxiliary or other ship owned or operated by a State and used only on government non-commercial service.

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

Oil pollution emergency plans

184. (1) A ship which is registered in Ghana and any foreign ship in Ghana's maritime jurisdiction shall have on board, a ship board oil pollution emergency plan

(a) co-ordinated with the system established in accordance with section 187, and

(b) approved in accordance with procedures established by the Authority.

(2) An operator of an offshore installation within the territorial waters or exclusive economic zone of Ghana shall have an oil pollution emergency plan

(a) co-ordinated with the system established in accordance with section 187, and

(b) approved in accordance with procedures established by the National Co-ordinator.

(3) A person in charge of a sea port or an oil handling facility within Ghana's maritime jurisdiction shall have an oil pollution emergency plan or similar arrangement

(a) co-ordinated with the system established in accordance with section 187, and

(b) approved in accordance with procedures established by the National Co-ordinator.

(4) A ship owner or master, or an operator of an offshore installation, or a person in charge of a seaport or an oil handling facility who does not have an oil pollution emergency plan shall pay to the Authority an administrative penalty of six hundred penalty units.

Pollution reporting procedures

185. (1) A master or any other person in charge of a ship registered in Ghana, or of an offshore unit within Ghana's maritime jurisdiction shall report without delay to the Authority any event

(a) on that master's or person's ship or offshore unit that involves a discharge or probable discharge of oil; and

(b) at sea which involves a discharge of oil or the presence of oil.

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(2) A person in charge of a sea port or an oil handling facility within Ghana's maritime jurisdiction shall report without delay to the Authority any event that involves a discharge or probable discharge or the presence of oil within Ghana's maritime jurisdiction.

(3) An officer of the Authority, Ghana Navy, Air Force, Police Service, Customs Division of the Ghana Revenue Authority, Immigration Service and any official authorised by the Minister shall report without delay to the Authority any event at sea or at a sea port or oil handling facility which involves the discharge of oil or the presence of oil.

(4) A report under this section shall be made in accordance with section 37 as appropriate.

(5) A person required to report an event at sea, sea port or oil handling facility who fails without reasonable cause to report the event shall pay to the Authority an administrative penalty of three hundred penalty units.

Action on receipt of oil pollution report

186. (1) Where the Authority receives a report under section 185, or pollution information from another source, the Authority shall, in collaboration with the National Co-ordinator and any other relevant Agency,

- (a) assess the event to determine whether it is an oil pollution incident;
- (b) if the event is an oil pollution incident, assess the nature, extent and possible consequences of the oil pollution incident; and
- (c) without delay inform all States whose interests are affected or likely to be affected by the oil pollution incident and provide
 - (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 those States.

(2) In the event of a serious oil pollution incident, the Authority shall provide the Organisation directly or through the relevant regional organisation with the details and information referred to in subsection (1) (c).

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(3) The Authority shall use, as far as is practicable, the oil pollution reporting system developed by the Marine Environmental Protection Committee of the Organisation when exchanging information and communicating with other States and the Organisation.

National and regional systems for preparedness and response

187. (1) There is established by this Act, a national system for the prompt and effective response to oil pollution incidents.

(2) The National Co-ordinator is

- (a) responsible for marine pollution preparedness and response;
- (b) the national operational contact point and responsible for the receipt and transmission of oil pollution reports as referred to in section 185; and
- (c) entitled to act on behalf of the Government and to request assistance or to decide to render the assistance requested.

(3) The National Co-ordinator shall prepare a national contingency plan for preparedness and response which includes the organisational relationship of the various bodies involved whether public or private, taking into account the guidelines contained in the Manual on Oil Pollution, “Section II – Contingency Planning”, developed by the Marine Environmental Protection Committee of the Organisation.

(4) The National Co-ordinator shall, within the Co-ordinator’s capabilities either unilaterally or through bilateral, or multilateral co-operation, and as appropriate in co-operation with oil and shipping industries, port authorities and the 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 as regards an oil pollution incident; and
- (d) mechanisms or arrangements to co-ordinate the response to an oil pollution incident with the capabilities to mobilise the necessary resources.

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(5) The National Co-ordinator shall provide the Authority with current information concerning

- (a) the location, telecommunication data and if applicable, areas of responsibility of the Co-ordinator;
- (b) information concerning pollution response equipment and expertise in disciplines related to oil pollution response and marine salvage, and
- (c) the national contingency plan.

International co-operation in pollution response

188. (1) The National Co-ordinator shall co-operate and provide on the request of any State Party to the Convention which is affected or likely to be affected by the incident, advisory services, technical support, and equipment to respond to a serious oil pollution incident.

(2) The financing of the costs for the assistance shall be based on the provisions set out in the Annex to the Convention and as specified in the Eighteenth Schedule.

(3) The Authority may where appropriate seek assistance from the Organisation to identify sources of provisional financing of the costs referred to in subsection (2).

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

- (a) the arrival and utilisation in, and departure from this country of a ship, aircraft or other mode of transport engaged in responding to
 - (i) an oil pollution incident, or
 - (ii) transporting personnel, cargo, materials and equipment required to deal with the incident; and
- (b) the expeditious movement into, through and out of this country, of personnel, cargo, materials and equipment.

Research and development

189. (1) The National Co-ordinator shall co-operate directly, or through relevant regional organisations or arrangements in the promotion and exchange of results of research and development programmes that relate to the enhancement of the state-of-the-art oil pollution preparedness and response including technologies and techniques for

- (a) surveillance,

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- (b) containment,
- (c) recovery,
- (d) dispersion,
- (e) clean-up,
- (f) minimising or mitigating the effects of oil pollution, and
- (g) restoration.

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

(3) The National Co-ordinator shall, where appropriate, co-operate directly or through relevant regional organisations or arrangements with other State Parties to promote, as appropriate, the holding on a regular basis of international symposia on relevant subjects which include technological advances in oil pollution techniques and equipment.

(4) The National Co-ordinator with other State Parties shall, where appropriate, co-operate directly or through other competent international organisations for 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 Organisation and for that purpose the Authority shall liaise with the Organisation.

Technical co-operation

190. (1) The National Co-ordinator shall, in respect of oil pollution preparedness and response, give support where appropriate, directly or through international bodies, to State Parties which request technical assistance to

- (a) train personnel;
- (b) ensure the availability of relevant technology, equipment and facilities;
- (c) facilitate other measures and arrangements for the preparation and response to oil pollution incidents; and
- (d) initiate joint research and development programmes.

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(2) The National Co-ordinator shall, where appropriate, co-operate with other State Parties in the transfer of technology in respect of oil pollution preparedness and response.

(3) The support and transfer of technology may be provided through the Organisation and for that purpose the Authority shall liaise with the Organisation.

Bilateral and multilateral arrangements

191. The National Co-ordinator may enter into a bilateral or multi-lateral arrangement for oil pollution preparedness and response and where the arrangement is entered into, the National Co-ordinator shall send to the Organisation copies of the relevant instruments or documents relating to the arrangement.

Relation to other provisions

192. This Chapter shall not be construed to alter the rights or obligations provided under any other section of this Act.

Interpretation

193. In this Chapter, unless the context otherwise requires,

“Convention” means the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990;

“National Co-ordinator” means the person or agency specified in the National Oil Spill Contingency Plan as co-ordinator or lead agency;

“offshore installation” means any man-made structure, plant or vessel or a part of the structure, plant or vessel whether floating or fixed to the seabed and which is placed within Ghana’s maritime jurisdiction for the purpose of exploration, appraisal or exploitation of liquid and gaseous hydrocarbons;

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

“oil pollution emergency plan” means a contingency plan other than the National Oil Spill Contingency Plan which sets out arrangements for responding to incidents which cause or may cause marine pollution by oil, with a view to preventing the pollution or reducing or minimising its effect;

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“oil pollution incident” means an occurrence or series of occurrences having the same origin, which results or may result in discharge of oil and which poses a threat to the marine environment, 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 responsible for the management of the oil facility in Ghana and in relation to an offshore installation, means a person responsible for the management of the installation;

“Organisation” means the International Maritime Organisation;

“sea ports and oil handling facilities” means a facility which presents a risk of an oil pollution incident and comprises among others sea ports, oil terminals, pipelines and other handling facilities; and

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

PART FIVE

**LIABILITY AND COMPENSATION FOR POLLUTION
DAMAGE**

CHAPTER ONE

LIABILITY FOR OIL POLLUTION

Meaning of owner in relation to damage

194. (1) In relation to damage or cost resulting from the discharge or escape of oil from a ship, or from a relevant threat of contamination, a reference in this Chapter to the owner of the ship is a reference to the owner at the time of the occurrence or the first occurrence which resulted in the discharge or escape or as the case may be the threat of contamination.

(2) The Minister shall publish in the *Gazette* a Notice of States which are parties to the Liability Convention.

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(3) The *Gazette* Notice is conclusive evidence that that State is a party to the Liability Convention.

(4) A reference in this Chapter to the “territory of a country” includes a reference to

- (a) the territorial sea of that country, and
- (b) in the case of Ghana and any Liability Convention Country,
 - (i) the exclusive economic zone of that country established in accordance with international law, or
 - (ii) if that zone has not been established, the area adjacent to the territorial sea of that country and extending not more than two hundred nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the State in question in accordance with international law.

(5) For the purpose of this Chapter,

- (a) a reference to a discharge or escape of oil from a ship is a reference to the discharge or escape of oil irrespective of its source whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences from the same origin, the discharge or escape shall be treated as one but a measure taken after the first of the discharge or escape shall be deemed to have been taken after all the discharge or escape; and
- (c) where a relevant threat of contamination of the sea results from a series of occurrences having the same origin, the occurrences shall be treated as a single occurrence.

Liability for oil pollution by tankers

195. (1) Except as otherwise provided in this chapter, where as a result of an occurrence, oil is discharged or escapes from a ship to which this Chapter applies, the owner of the ship is liable for

- (a) damage caused in Ghana’s maritime jurisdiction by contamination of the sea resulting from the discharge or escape;
- (b) the cost of any measures reasonably taken after the discharge or escape to prevent or minimise the damage caused in Ghana’s maritime jurisdiction by the contamination of the sea resulting from the discharge or escape; and

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(c) any damage caused in Ghana's maritime jurisdiction by the measures taken.

(2) Where an occurrence that involves the discharge or escape of oil from a ship results in a grave and imminent threat of damage through contamination of the sea, the owner of the ship except as otherwise provided in this Chapter is liable

(a) for the cost of measures reasonably taken to prevent or minimise the damage in Ghana's maritime jurisdiction; and

(b) for damage caused in Ghana's maritime jurisdiction by any measures taken.

(3) For the purpose of this Chapter, an imminent threat under subsection (2) is referred to as a relevant threat of contamination.

(4) Subject to subsection (5), this section applies to a ship constructed or adapted for carrying oil in bulk as cargo.

(5) Where a person incurs a liability under subsection (1) or (2) that person is also liable for any damage or cost for which that person would be liable under that subsection if the reference in the subsection to Ghana's maritime jurisdiction includes a reference to the territory of any other Liability Convention Country.

(6) Where

(a) as a result of an occurrence which involves two or more ships a liability is incurred under this section by the owner of each of the ships, and

(b) the damage or cost for which each owner is liable cannot reasonably be separated from that of the other owner, each owner is liable jointly with the other owner for the whole of the damage or cost for which the owners together are liable.

(7) Where a ship is constructed or adapted in a manner that enables it to carry other cargo besides oil, this Chapter applies to the ship

(a) while it is carrying oil in bulk as cargo; and

(b) while it is on any voyage following the carriage of oil unless it is proved that no residues from the oil remain in the ship.

Liability for oil pollution by other ships

196. (1) Except as otherwise provided in this Chapter, where as a result of an occurrence, oil is discharged or escapes from a ship to which

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the definition of a ship under this Chapter does not apply, the owner of the ship is liable

- (a) for damage caused in Ghana's maritime jurisdiction by contamination of the sea resulting from the discharge or escape;
- (b) for the cost of any measure reasonably taken after the discharge or escape to prevent or minimise the damage caused in Ghana's maritime jurisdiction by the contamination of the sea resulting from the discharge or escape; and
- (c) for damage caused in Ghana's maritime jurisdiction by the measure taken.

(2) Where as a result of an occurrence there is a discharge or escape of oil from a ship which creates a relevant threat of contamination, the owner of the ship except as otherwise provided in this Chapter is liable

- (a) for the cost of any measure reasonably taken for the purpose of preventing or minimising the damage in Ghana's maritime jurisdiction; and
- (b) for damage caused outside the ship in Ghana's maritime jurisdiction by measures taken.

(3) Where

- (a) as a result of an occurrence involving two or more ships, a liability is incurred under this section by the owner of each of the ships, and
 - (b) the damage or cost for which each owner is liable cannot reasonably be separated from that of the other owner,
- each owner is liable jointly with the other owner for the whole of the damage or cost for which the owners together are liable.

(4) In this section, "ship" includes a vessel which is not sea going.

Exceptions from liability under sections 195 and 196

197. The owner of a ship under section 195 or 196; is not liable for any discharge or escape of oil from the ship, or any relevant threat of contamination if that owner proves that the discharge or escape or relevant threat of contamination is as a result

- (a) of an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;

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- (b) wholly of an act or omission of another person who is not a servant or agent of the owner;
- (c) wholly of the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other aids to navigation for the maintenance of which that government or other authority was responsible.

Restriction of liability for oil pollution

198. (1) Where as a result of an occurrence, oil is discharged or escapes from a ship whether or not the ship is of the kind defined in section 196 and the discharge or escape creates a relevant threat of contamination of the sea, the owner of the ship is not liable for damage or cost, unless the damage or cost resulted from an act or omission of the owner either

- (a) with intent to cause the damage or cost, or
- (b) recklessly and in the knowledge that the damage or cost is likely to result.

(2) Subsection (1) applies to

- (a) a servant or agent of the owner of the ship;
- (b) a person employed or engaged in any capacity on board the ship or to perform a function for the ship;
- (c) a charterer of the ship or bareboat;
- (d) a person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) a person taking any measures under section 195 or 196; or
- (f) a servant or agent of a person referred to in paragraph (c), (d) or (e).

(3) The liability of the owner of a ship of the type to which subsection (1) refers in respect of section 195 or 196 for any impairment of the environment is a liability only in respect of

- (a) any resulting loss of profits; and
- (b) the cost of any reasonable measure of reinstatement actually taken or to be taken.

Limitation of liability under section 195

199. (1) Subject to subsection (3), where as a result of an occurrence the owner of a ship incurs liability under section 195 by reason of discharge

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or escape that creates a relevant threat of contamination of the sea, the owner may limit that liability in accordance with the provisions of this Chapter to a sum that does not exceed the relevant amount.

(2) The “relevant amount” means

- (a) in relation to a ship that does not exceed five thousand tons, four million five hundred and ten thousand special drawing rights; or
- (b) in relation to a ship that exceeds five thousand tons, four million, five hundred and ten thousand special drawing rights together with an additional six hundred and thirty-one special drawing rights for each ton in excess of five thousand tons up to a maximum amount of eighty-nine million, seven hundred and seventy thousand special drawing rights.

(3) The Minister may, by notice in the *Gazette*, amend paragraphs (a) and (b) as appropriate for the purpose of implementing an amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

(4) Subsection (1) does not apply where it is proved that the discharge or escape that creates the relevant threat of contamination resulted from an act or omission of the owner either

- (a) with intent to cause the damage or create a cost as is mentioned in section 195; or
- (b) recklessly and in the knowledge that the damage or cost is likely to result.

(5) For the purposes of this section a ship’s tonnage is its gross tonnage calculated in accordance with the Tonnage Regulations made under the Ghana Shipping Act, 2003 (Act 645).

Limitation actions

200. (1) Where the owner of a ship has or is alleged to have incurred a liability under section 195, the owner may apply to Court for the limitation of that liability to an amount determined in accordance with section 199.

(2) Where the Court finds that the applicant has incurred the liability and is entitled to limit the liability, the Court shall after determining the limit of the liability, direct payment of the amount into a fund established for that purpose.

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- (3) The Court shall
- (a) determine other amounts that apart from the limit is due in respect of the liability to the several persons making claims in the proceedings; and
 - (b) direct the distribution of the amount paid into Court or as much of the amount paid into Court as does not exceed the liability among those persons in proportion to their claims, subject to the provisions of this section.
- (4) Where the Court
- (a) makes a distribution under subsection (2) without having found that the applicant is entitled to limit the applicant's liability, and
 - (b) subsequently finds that the applicant is not entitled to limit the liability, the distribution shall not affect the applicant's liability in excess of the amount distributed.
- (5) The payment into Court of the amount that relates to a limit determined in furtherance of this section shall be in United States Dollars, and
- (a) for the purpose of converting the amount from special drawing rights into United States Dollars, one special drawing right shall be treated as equal to the sum in United States Dollars that the International Monetary Fund has fixed as being the equivalent of one special drawing right for
 - (i) the day on which the determination is made; or
 - (ii) the last day for which a sum was fixed before the determination was made, if a sum has not been fixed for that day;
 - (b) a certificate given by or on behalf of the Minister which states
 - (i) that a particular sum in United States Dollars has been fixed for the day on which the determination was made; or
 - (ii) that no sum has been fixed for that day but a particular sum in United States Dollars has been fixed for a day that immediately preceded the determination
- is conclusive evidence of those matters for the purposes of this Chapter.

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- (6) A document that purports to be the certificate shall
- (a) be received in evidence in any proceedings; and
 - (b) unless the contrary is proved, be accepted to be the certificate.

(7) A claim is not admissible in proceedings under this section unless it is made within the time specified in the Limitations Act, 1972 (NRCD 54) or some further time that the Court may allow.

(8) Where a sum has been paid in or towards the satisfaction of a claim in respect of the damage or cost to which the liability extends

- (a) by the owner or a person referred to in section 207 as the “insurer”; or
- (b) a person who has or is alleged to have incurred a liability, otherwise than under section 195, for the damage or cost and who is entitled to limit the liability by virtue of section 408 of the Ghana Shipping Act, 2003 (Act 645),

the person who paid the sum shall, to the extent of that sum, be in the same position as regards a distribution made in proceedings under this section as the person to whom the sum was paid.

(9) Where the person who incurred the liability has voluntarily made a reasonable sacrifice, or taken other reasonable measure to prevent or reduce the damage to which the liability extends or is likely to extend, that person shall be in the same position as regards any distribution made in proceedings under this section as if that person has a claim in respect of the liability equal to the cost of the sacrifice or claim.

(10) The Court, if it considers it appropriate, may postpone the distribution of part of the amount to be distributed that the Court determines to be appropriate having regard to claims that may later be established before a court in a country other than Ghana.

(11) A lien or other right in respect of a ship or other property shall not affect the proportions in which any amount is distributed in accordance with subsection (2).

Restriction on enforcement after establishment of limitation fund

201. Where the Court finds that a person who has incurred a liability under section 195 is entitled to limit that liability and that person has paid into Court a sum not less than the amount that relates to that limit,

- (a) that Court shall order the release of a ship or other property arrested in connection with the claim in respect of that liability or any security given to prevent or obtain release from the arrest; and

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- (b) a judgment or decree other than for a claim made under section 200 shall not be enforced except so far as it is for costs

if the sum paid into Court, or a part of that sum as corresponds to the claim is actually available to the claimant or will be available to the claimant if the proper steps in the proceedings under section 200 are taken.

Concurrent liability of owners and other persons

202. Where as a result of a relevant threat of contamination of the sea created by a discharge or escape of oil from a ship,

- (a) the owner of the ship incurs a liability under section 195; and
- (b) any other person incurs a liability otherwise than under that section in respect of the damage or cost mentioned under section 195 (1) or (2);
- (c) the owner is found in proceedings under section 200 to be entitled to limit the liability and the owner pays into Court a sum not less than the amount related to the limit; and
- (d) that other person referred to in paragraph (b) is entitled to limit the liability in connection with the other ship by virtue of section 408 of the Ghana Shipping Act, 2003 (Act 645),

proceedings shall not be taken against the other person in respect of that person's liability and if proceedings are commenced before the owner pays the sum into Court, further steps shall not be taken in the proceedings except in relation to costs.

Limitation fund established outside Ghana

203. Where the events that resulted in the liability of a person under section 195 also resulted in a corresponding liability under the law of another Liability Convention Country, sections 201 and 202 of this Act shall apply as if references

- (a) to sections 195 and 196 include references to the corresponding provisions of that law, and
- (b) to sums paid into Court include references to any sum secured under the corresponding provisions of that law in respect of the liability.

Extinguishment of claim

204. (1) A person shall not be compensated for damage suffered as a result of pollution, if the claim for compensation is brought after a period of three years.

(2) A person shall not bring an action for compensation after six years from the date of the incident which caused the damage.

(3) Where the incident which caused the damage consists of a series of occurrences, the six year period shall run from the date of the first occurrence.

Compulsory insurance against liability for pollution

205. (1) Subject to the provisions of this Chapter relating to government ships, subsection (2) applies to any ship which carries in bulk a cargo of more than two thousand tons of oil of a description specified in Regulations.

(2) A ship shall not

(a) enter, arrive at or leave a port or terminal in Ghana, or in the territorial sea of Ghana, or

(b) in the case of a Ghanaian ship, enter a port in another country or a terminal in the territorial sea of another country

unless that ship has a certificate which complies with subsection (3) and shows that the ship is covered by a contract of insurance or other financial security in respect of the ship which satisfies the requirements of this section.

(3) The certificate shall,

(a) in the case of a Ghanaian ship, be a certificate issued by the Authority,

(b) in the case of a ship registered in a Liability Convention Country other than Ghana, be a certificate issued by or under the authority of the government of that other Liability Convention Country, or

(c) in the case of a ship which is not a Ghanaian ship and which is registered in a country which is not a Liability Convention Country, be a certificate issued by the competent authority of any Liability Convention Country other than Ghana,

(d) be in English, and

(e) be in the form specified in the Twentieth Schedule.

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(4) A certificate required by this section shall be carried on the ship, and shall on demand, be produced by the master of the ship to an officer of the Customs Division of the Ghana Revenue Authority or a surveyor authorised by the Authority for the purpose, and in the case of a Ghanaian ship, to any proper officer.

(5) Where a ship enters, arrives at or leaves or attempts to enter, arrive at or leave a port or a terminal in contravention of subsection (2), the master or owner of the ship shall pay to the Authority an administrative penalty of five hundred penalty units.

(6) Where a ship fails to carry, or the master of a ship fails to produce a certificate as required by subsection (4), the master shall pay to the Authority an administrative penalty of two hundred penalty units.

(7) The Authority may detain a ship which attempts to leave a port or terminal in Ghana in contravention of this section.

Issue of certificate by the Authority

206. (1) Subject to subsection (2), if the Authority is satisfied, on an application for the certificate specified in section 205 in respect of

- (a) a Ghanaian ship, or
- (b) a ship registered in any country which is not a Liability Convention Country

that there will be in force in respect of the ship throughout the period for which the Certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Authority shall issue the Certificate to the owner.

(2) Where the Authority doubts whether the person providing the insurance or other security is capable of meeting that person's obligation, or whether the insurance or other security provided covers the owners liability under section 195 in all circumstances, it may refuse to issue the Certificate.

(3) The Minister may, by legislative instrument, make Regulations to provide for the cancellation and surrender of a certificate under this section in circumstances that may be prescribed by the Regulations.

(4) Where a person fails to surrender a certificate, that person shall pay to the Authority an administrative penalty of five hundred penalty units.

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(5) The Authority shall make available for public inspection a copy of any certificate in respect of a Ghanaian ship issued by it under this section.

Right of third parties against insurers

207. (1) Where it is alleged that the owner of a ship which has the Certificate required by section 205 has incurred a liability under section 195 as a result of discharge or escape of oil which creates a relevant threat of contamination, proceedings may be brought to enforce a claim in respect of the liability against the person who provided the insurance or other security.

(2) In any proceedings brought against the insurer by virtue of this section, it is a defence in addition to any defence in respect of the owner's liability, to prove that the discharge, or escape which created the relevant threat of contamination is due to the wilful misconduct of the owner.

(3) The insurer may limit its liability in respect of claims made against the insurer by virtue of this section in the same manner and to the same extent that the owner may limit the owner's liability, but the insurer may limit its liability whether or not the discharge or escape which created the relevant threat of contamination resulted from an act or omission of the owner as mentioned in section 209 (3).

(4) Where the owner and insurer each apply to the Court for the limitation of liability, any sum paid into Court in pursuance of either application shall be treated as paid also in pursuance of the other.

Jurisdiction of Ghanaian court and registration of foreign judgment

208. (1) Where

(a) oil is discharged or escapes from a ship but

(i) does not cause any damage by contamination in Ghana's maritime jurisdiction; and

(ii) no measures are reasonably required to prevent or minimise damage in the affected territory; or

(b) a relevant threat of contamination arises but reasonable measures are not taken to prevent or minimise damage in Ghana's maritime jurisdiction,

a Court in Ghana shall not entertain any action whether in rem or in personam to enforce a claim for relevant damage or cost

(c) against the owner of the ship, or

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(d) against a person to whom section 198 (1) applies unless there is damage or cost from anything done or omitted to be done as required in that section.

(2) In subsection (1) “relevant damage or cost” means

(a) in relation to any discharge or escape which creates a relevant threat of contamination under that subsection, any damage caused in the territory of another Liability Convention Country by the contamination of the sea resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise the damage in the territory of another Liability Convention Country;

(b) damage caused by any measures taken under paragraph (a) or (b), and section 198 (2) (e) and which has effect for the purpose of subsection (1) as if it referred to a person taking the measures under paragraph (a).

(3) A judgment given by a court in a Liability Convention Country in respect of a liability incurred under a provision that corresponds to section 195 is enforceable by the Court.

Government ships

209. (1) The preceding provisions of this Chapter do not apply in relation to a warship or a ship which is used by the government of any State for non-commercial purposes.

(2) In relation to a ship owned by a State and which is used for commercial purposes, section 205 (2) is sufficiently complied with if the ship has a certificate issued by the government of that State that shows that the ship is owned by that State, and that any liability for pollution damage as defined in Article I of the Liability Convention will be met by the State up to the limit prescribed by Article V of the Convention.

(3) For the purposes of any proceedings brought in the Court in Ghana to enforce a claim in respect of a liability incurred under section 195, a Liability Convention State shall be deemed to have submitted to the jurisdiction of the Court, and accordingly the rules of Court may provide for the manner in which the proceedings are to be commenced and carried on but nothing in this subsection shall authorise the issue of execution against the property of any State.

Limitation of liability under section 196

210. A liability incurred under section 196 is a liability to damages in respect of damage to property under subsection (1) (a) of section 409 of the Ghana Shipping Act, 2003 (Act 645).

Saving for recourse action

211. This Chapter shall not affect any claim or the enforcement of any claim that a person who incurs liability under this Chapter may have against another person in respect of that liability.

Interpretation

212. In this Chapter, unless the context otherwise requires,

“damage” includes loss;

“Liability Convention Country” means a country in respect of which the Convention is in force;

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

“oil” means hydrocarbon mineral oil and comprises among others crude oil, fuel oil, heavy diesel oil and lubricating oil whether carried on board a ship as cargo or in the bunkers of the ship;

“owner” means a person registered as the owner of the ship, or in the absence of registration the person who owns the ship except that in relation to a ship which is owned by a State, which is operated by a person registered as the ship’s operator, that registered person;

“relevant threat of contamination” has the same meaning as in section 195 (2) or 196 (2);

“ship” subject to section 196 (4) means any sea-going vessel or a seaborne craft of any type constructed or adopted for the carriage of oil in bulk as cargo but a ship capable of carrying oil and other cargo shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following the carriage unless it is proved that it has no residues of the carriage of oil in bulk on board; and

“the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage, 1992.

CHAPTER TWO

INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1992

Meaning of discharge or escape of oil

213. (1) For the purposes of this Chapter,

- (a) a reference to discharge or escape of oil from a ship is a reference to discharge or escape wherever it occurs whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, the occurrences shall be treated as one.

(2) A reference in this Chapter to the territory of any country shall be construed in accordance with section 194 (3) and the reference in that section to a Liability Convention Country is a reference to a Fund Convention Country.

(3) The Minister may, by notice published in the *Gazette*, declare that a State is a party to the Fund Convention.

(4) The *Gazette* notice is conclusive evidence to the fact that a State specified in the notice is a party to the Fund Convention.

Contributions by oil importers and others

214. (1) An importer of oil or a person on whose behalf oil is carried by sea to a port or terminal installation in Ghana shall pay contribution to the Fund.

(2) Subsection (1) applies whether or not the oil is imported and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) A person on whose behalf oil is first received in an installation in Ghana after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country shall pay a contribution to the Fund in respect of the oil received.

(4) A person is not liable to make contributions in respect of oil imported or received in any year if the oil imported or received in the year is not more than one hundred and fifty thousand tons.

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- (5) For the purpose of subsection (4),
- (a) the members of a group of companies shall be treated as a single person; and
 - (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person or as a single company.
- (6) The contributions payable by a person for any year shall
- (a) be of an amount determined by the Executive Director of the Fund under the Fund Convention and notified to that person by the Fund; and
 - (b) be payable in installments at the times notified to that person on which it became due, and if an amount due from that person remains unpaid after the date, the amount shall from that date bear interest at a rate determined by the Assembly of the Fund, until it is paid.
- (7) The Authority may require a person who is liable to pay contributions under this section to provide security for payment to the Fund.
- (8) The Minister may, by legislative instrument, make Regulations to regulate the security provided under subsection (7).
- (9) Regulations under subsection (8) may contain supplemental or incidental provisions that appear to the Minister to be expedient.
- (10) In this section and in section 215, unless the context otherwise requires,
- “company” means a body incorporated under the Companies Act, 1963 (Act 179) of Ghana or under the law which governs the registration of companies in any other country;
 - “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and comprises among others a liquid hydrocarbon mixture of this kind
 - (a) from which distillate fractions have been removed, and
 - (b) to which distillate fractions have been added;
 - “fuel oil” means heavy distillates or residue from crude oil or blends of those materials intended for use as fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D396 – 96)” or heavier;

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“group” in relation to companies, means a holding company and its subsidiaries as defined by the Companies Act, 1963 (Act 179) subject, in the case of a company incorporated outside Ghana to any necessary modification of this definition;

“import” means oil entered for customs or excise purposes on importation;

“importer” means a person by whom or on whose behalf oil is entered for customs or excise purposes on importation;

“oil” means crude oil or fuel oil; and

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from water borne transportation, and comprises any facility which is situated offshore and linked to the site.

Power to obtain information

215. (1) For the purpose of transmitting contributions to the Fund the Authority may, by notice, require a person engaged in producing, treating, distributing or transporting oil to furnish information that provides

- (a) the names and addresses of the persons who under section 214 are liable to make contributions to the Fund for any year, and
- (b) the quantity of oil in respect of which those persons are liable.

(2) A notice under this section may require a company to give the information required to ascertain whether its liability is affected by section 214 (5).

(3) A notice under this section may specify the way in which and the time within which the notice is to be complied with.

(4) In proceedings by the Fund against a person to recover an amount due under section 214, particulars contained in any list transmitted by the Authority shall be presumed to be accurate until the contrary is proved and are admissible as evidence of the facts stated in the list in so far as those particulars are based on information

- (a) obtained under this section; and
- (b) given by the person against whom the proceedings are brought.

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(5) A person who discloses information which has been furnished to, or obtained by that person under this section, or in connection with the execution of this section, commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units unless the disclosure is made

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the execution of this section; or
- (c) for the purposes of
 - (i) legal proceedings arising out of this section; or
 - (ii) any report of the proceedings.

(6) A person who

- (a) refuses or wilfully neglects to comply with a notice under this section, or
- (b) in furnishing any information in compliance with a notice under this section makes any statement which that person knows to be false in a material particular, or
- (c) recklessly makes any statement which is false in a material particular

commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than three thousand penalty units.

Liability of the Fund

216. (1) The Fund is liable for pollution damage in Ghana's maritime jurisdiction if the person who suffers the damage is unable to obtain full compensation under section 196 because

- (a) the discharge, or escape which created the relevant threat of contamination or caused the damage was
 - (i) as a result of an exceptional, inevitable and irresistible phenomenon;
 - (ii) due wholly to the act or omission of another person who is not a servant or agent of the owner with the intent to do damage; or
 - (iii) due wholly to the negligence or wrongful act of a government or other authority while exercising its function of maintaining lights or other aids of navigation;
- (b) the owner or guarantor liable for the damage cannot meet the obligations in full; or

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- (c) the damage exceeds the liability under section 195 as limited by section 199.
- (2) Subsection (1) applies to pollution damage in the territory of “a Fund Convention Country” where
 - (a) the incident causes pollution damage in Ghana’s maritime jurisdiction and another Fund Convention country, and
 - (b) proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country
 - (i) other than Ghana; and
 - (ii) which is not a Fund Convention Country.
- (3) Where the incident causes pollution damage in Ghana’s maritime jurisdiction and of another country in respect of which the Liability Convention is in force, a reference in this section to the provisions of this Chapter includes a reference to the corresponding provisions of the law of any country giving effect to the Liability Convention.
- (4) For the purpose of this section, an owner or guarantor is considered incapable of meeting the obligations of that owner or guarantor if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.
- (5) Expenses reasonably incurred and sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section and accordingly, the owner shall be in the same position as regards claims against the Fund under this section as if the owner had a claim in respect of liability under section 195.
- (6) The Fund shall not incur an obligation under this section if
 - (a) the Fund proves that the pollution damage
 - (i) is as a result of an act of war, hostilities, civil war or insurrection; or
 - (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence only on government non-commercial service; or
 - (b) the claimant cannot prove that the damage resulted from an occurrence involving

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- (i) a ship identified by the claimant, or
- (ii) two or more ships one of which was identified by the claimant.

(7) Where the Fund proves that the pollution damage resulted wholly or partly

- (a) from an act or omission of the person who suffered the damage with intent by that person to cause the damage, or
- (b) from the negligence of that person,

the Fund may, subject to subsection (9) be exonerated wholly or partly from its obligations to pay compensation to that person.

(8) Where the liability under section 195 in respect of pollution damage is limited to any extent by subsection (8) of that section, the Fund shall, subject to subsection (9), be exonerated to the same extent.

(9) Subsections (7) and (8) do not apply where the pollution damage consists of the costs of preventive measures or any damage caused by those measures.

Limitation of liability of Fund under section 216

217. (1) The liability of the Fund under section 216 is subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention in respect of the liabilities of the Fund and as set out in Part 1 of the Nineteenth Schedule.

(2) A certificate given by the Director of the Fund stating that paragraph (4) (c) of Article 4 of the Fund Convention is applicable to any claim under section 216 is conclusive evidence for the purposes of sections 213 to 221 that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention the Court which gives judgment against the Fund in proceedings under section 216 shall notify the Fund, and

- (a) steps shall not be taken to enforce the judgment unless the Court gives leave to enforce the judgment,
- (b) leave shall not be given for the enforcement of the judgment unless the Fund notifies the Court either that the amount of the claim is
 - (i) not to be reduced under paragraphs 4 and 5 of Article 4 of the Fund Convention, or
 - (ii) to be reduced to a specified amount.

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(4) Any step taken to obtain payment of an amount, or a reduced amount in pursuance of the judgment mentioned in subsection (3) shall ensure that payment is in United States Dollars and

(a) for the purpose of converting the amount from special drawing rights into United States Dollars, one special drawing right shall be treated as equal to the sum in United States Dollars that the International Monetary Fund fixes as being the equivalent of one special drawing right, for

(i) the relevant day, which is the day on which the Assembly of the Fund decides the date for the first payment of compensation in respect of the incident, or

(ii) for the day on which a sum was last fixed before the relevant day if a sum is not fixed for the relevant day; and

(b) a certificate given by or on behalf of the Minister which states that

(i) a particular sum in dollars has been fixed for the relevant day; or

(ii) a sum has not been fixed for the relevant day and that a particular sum was last fixed for a day immediately before the relevant day,

is conclusive evidence of those matters for the purpose of sections 213 to 221.

(5) A document purporting to be the certificate referred to in subsection (2) or subsection 4 (b) is admissible in evidence in legal proceedings and, unless the contrary is proved, shall be accepted to be the certificate.

Jurisdiction and effect of judgment

218. (1) Where in accordance with the Rules of Court made for the purposes of this subsection the Fund has been given notice of a judgment that is final and enforceable, in proceedings brought against an owner or guarantor in respect of liability under section 195 that judgment is binding on the Fund, even if the Fund has not intervened in the proceedings.

(2) Where a person incurs a liability under the law of a Fund Convention Country that corresponds to sections 194 to 212 for damage which occurs partly in Ghana's maritime jurisdiction, subsection (2) shall, for the purpose of proceedings under this Chapter apply with the necessary modifications to a judgment in proceedings under that law of that country.

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(3) Subject to subsection (4), a judgment given by a court in a Fund Convention Country to enforce a claim in respect of liability incurred under any provision corresponding to section 216 is enforceable by the Court in Ghana.

(4) A step shall not be taken to enforce a judgment unless the Fund notifies the Court that the amount of the claim is

(a) not to be reduced

(i) under paragraph 4 of Article 4 of the Fund Convention, or

(ii) as set out in Part 1 of the Nineteenth Schedule; or

(b) to be reduced to a specified amount and the judgment is enforceable only for the reduced amount.

(5) Where the claim is reduced by the Court, the judgment is enforceable only for the reduced amount.

Extinguishment of claims

219. (1) An action to enforce a claim against the Fund under this Chapter shall not be entertained by the Court in Ghana unless

(a) the action is commenced, or

(b) a third party notice of an action to enforce the claim against the owner or the guarantor of the owner in respect of the damage is given to the Fund

not later than three years after the claim against the Fund arose.

(2) In subsection (1), “third party notice” means a notice of the kind described in section 218 (1) and (2).

(3) An action to enforce a claim against the Fund under this Chapter shall not be entertained by the Court in Ghana unless the action is commenced not later than six years after the occurrence, or first of the occurrences resulting in the discharge or escape, which created the relevant threat of contamination by reason of which the claim against the Fund arose.

Subrogation

220. (1) In respect of any sum paid by the Fund as compensation for pollution damage, the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has or but for the payment would have had against any other person.

(2) In respect of any sum paid by a public authority in Ghana as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

Supplementary provisions as to proceedings involving the Fund

221. (1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name, or be instituted by or against the Director of the Fund as the representative of the Fund.

(2) Evidence of

- (a) an instrument issued by any organ of the Fund,
- (b) a document in the custody of the Fund, or
- (c) an entry in, or extract from a document in the custody of the Fund

may be given in legal proceedings by the production of a copy certified as a true copy by an official of the Fund.

(3) Any document that is certified to be a true copy shall, in any proceedings, be received in evidence without proof of the official position or handwriting of the person who signed the certificate.

(4) For purposes of this Chapter,

“damage” includes loss;

“Director” means the Director of the Fund who by the Laws of Ghana is the legal representative of the Fund;

“discharge or escape” in relation to pollution damage, means the discharge or escape of oil from a ship;

“Fund” means the fund established by the Fund Convention which is a legal person under the laws of Ghana;

“Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992;

“Fund Convention Country” means a country where the Fund Convention is in force;

“guarantor” means a person who provides insurance or other financial security to cover the liability of the owner described in section 205 of this Act;

“incident” means an occurrence or series of occurrences which have the same origin and which result in a discharge or escape of oil from a ship and which creates a relevant threat of contamination;

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“Liability Convention” has the same meaning as in sections 194 to 212;

“oil” except in sections 214 and 215 means persistent hydrocarbon mineral oil;

“owner” means

- (a) a person registered as the owner of a ship, or
- (b) in the absence of registration, a person who owns the ship or where a ship is owned by a State and operated by a person registered as the ship’s operator, the person registered as the operator;

“pollution damage” means

- (a) damage caused outside a ship by contamination which results from discharge or escape of oil from the ship,
- (b) the cost of preventive measures, and
- (c) further damage caused by the preventive measures, other than damage attributable to any impairment of the environment except to the extent that the damage consists of
 - (i) loss of profits, or
 - (ii) cost of any reasonable measures for reinstatement actually taken or to be taken;

“preventive measures” means reasonable measures taken by any person to prevent or minimise pollution damage

- (a) after the occurrence of an incident; or
- (b) in the case of an incident consisting of a series of occurrences, after the first of these occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and

“ship” means any ship within the meaning of sections 194 to 212 to which section 196 applies.

CHAPTER THREE

ENFORCEMENT

Enforcement

222. Parts XVII to XVIII of the Ghana Shipping Act, 2003 (Act 645) apply to all matters falling within the scope of this Act so far as the application of any provision of those sections are appropriate.

Restriction on jurisdiction over offences committed outside country's limits

223. (1) Proceedings shall not be instituted in this country for an offence committed as a result of a contravention of a provision of this Act by a foreign ship in relation to a discharge in the internal waters, territorial seas or exclusive economic zone of another State unless

- (a) the flag State or a State which has suffered damage or is threatened as a result of the discharge requests that proceedings be taken; or
- (b) the discharge has caused or is likely to cause pollution within Ghana's maritime jurisdiction.

(2) Where proceedings are instituted under subsection (1) but not concluded and the State which instituted the proceedings requests suspension of the proceedings, the

- (a) proceedings shall be suspended, and
- (b) the Authority shall transmit all the evidence, Court records and documents related to the case, together with any sums paid or security given to that State.

(3) It is a defence for a person charged with contravening any provision of this Act to prove that

- (a) the ship is a foreign ship,
- (b) the discharge took place outside Ghana or Ghana's maritime jurisdiction, and
- (c) the ship was in a port in Ghana at the time of the institution of proceedings by reason only of
 - (i) stress of weather, or
 - (ii) other reason beyond the control of the master or owner or charterer.

Suspension of proceedings at flag State request

224. (1) This section relates to an alleged offence or contravention of a provision of this Act by a foreign ship in relation to a discharge outside Ghana, or its territorial sea, or exclusive economic zone.

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

(3) Subsection (2) does not apply

(a) where the discharge resulted in major damage to Ghana;
or

(b) where the Authority has certified that the flag State has repeatedly disregarded its obligation to enforce effectively the requirements of a Convention referred to in this Act in respect of its ships.

(4) Where proceedings instituted by the flag State are brought to a conclusion, the suspended proceedings shall be terminated.

(5) Where the costs the Authority incurs in respect of proceedings suspended under subsection (2) are paid, any money paid or security given shall be released.

CHAPTER FOUR

MISCELLANEOUS

Duty to report discharge of oil into waters of a harbour

225. (1) If oil or a mixture which contains oil

(a) is discharged from a ship into the waters of a harbour in Ghana;

(b) is found to be escaping or to have escaped from a ship into the waters of Ghana; or

(c) is found to be escaping or to have escaped into the waters of Ghana from a place on land

the owner or master of the ship or the occupier of the place on land shall immediately report the occurrence to the harbour master or if the harbour has no harbour master to the Ghana Ports and Harbours Authority.

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(2) A report made under subsection (1) by the owner or master of the ship shall state whether the occurrence falls within paragraph (a) or (b) of subsection (1).

(3) A person who fails to make a report as required by this section shall pay to the Authority an administrative penalty of two hundred penalty units.

Discharge of oil into internal waters of Ghana other than waters of a harbour

226. (1) Subject to this Act, if oil or a mixture which contains oil is discharged from any ship, or from any place on land, or from an apparatus used for transferring oil from or to any ship or to or from a ship into the internal waters of Ghana other than waters of a harbour, if the discharge is from

- (a) a ship, the owner or master of the ship,
- (b) a place on land, the occupier of that place, or
- (c) an apparatus used for transferring oil from or to a ship, the person in charge of that apparatus

commits an offence and is liable on summary conviction to a fine of not more than fifteen thousand penalty units and is liable for the cost of clean up.

(2) For the purpose of this section, “internal waters” means the waters on the land ward side of the baseline of the territorial sea of Ghana as provided by section 3 of the Maritime Zones (Delimitation) Act 1986, (PNDCL 159).

Insurance for operators of offshore installation or storage facility

227. (1) The owner or operator of an offshore installation or a storage facility shall, before commencing any operation within Ghana’s maritime jurisdiction, take out an insurance policy to cover that owner or operator’s liability arising out of any pollution damage.

(2) An owner or operator of an existing offshore installation or storage facility shall, within one month after the commencement of this Act, take out an insurance policy to cover the owner or operator’s liability for pollution damage within Ghana’s maritime jurisdiction.

(3) An owner or operator of an offshore installation or storage facility who fails to insure that owner or operator’s liability for pollution damage shall pay to the Authority an administrative penalty of

- (a) one thousand penalty units; and
- (b) fifty penalty units for each day the default continues.

Discharge of oil from pipelines or as a result of exploration or exploitation

228. Subject to this Act, if any oil or any mixture containing oil is discharged into the sea from

- (a) a pipeline, or
- (b) a source other than a ship as a result of any operation for the exploration or the exploitation of a natural resource of the sea-bed or its subsoil

the owner of the pipeline, or the person who carries on the operations or exploitation commits an offence and is liable on summary conviction to a fine of not more than one million penalty units unless

- (c) the owner of the pipeline, or
- (d) the person who carries on the exploration or exploitation

proves that the discharge was due to the act of another person without the express or implied permission of the owner of the pipeline or the person who carries on the exploration or exploitation.

Transfer of oil

229. (1) A person shall not

- (a) transfer oil from
 - (i) one ship to another ship,
 - (ii) an installation to a ship, or
- (b) engage in other transfer of oil, petroleum or any other substance

unless that person obtains the approval of the Authority.

(2) The application for the approval shall be submitted to the Authority at least forty-eight hours before the transfer.

(3) The transfer shall be made in accordance with a plan approved by the Authority.

(4) The Authority may be represented during the transfer operations.

(5) A person who fails to comply with the requirements of this section is liable on summary conviction to a fine of not less than five thousand penalty units and not more than ten thousand penalty units or to a term of imprisonment of not less than ten years and not more than fifteen years or to both.

Restrictions on the transfer of oil in a harbour or port

230. (1) A person shall not transfer oil to or from a ship in a port of Ghana unless

- (a) the transfer is carried out under the supervision of the port authority or the Authority; and

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- (b) the notice has been given in accordance with this section.
- (2) This subsection does not apply to the transfer of oil to save life or property.
- (3) The notice shall
 - (a) be given to the harbour master not less than three hours and not more than ninety-six hours before the transfer of oil begins;
 - (b) specify the place where and the period within which the transfer will take place.
- (4) Where a port has no harbour master the reference to the harbour master shall be construed as reference to the port authority.
- (5) If oil is transferred in contravention of this section
 - (a) from a ship, the master of the ship or
 - (b) from a place on land, the person on whose behalf the oil is transferred

shall pay to the Authority an administrative penalty of one thousand and two hundred penalty units.

Presidential directives on oil or other chemical spill response

231. (1) Where there is an occurrence of an oil or other chemical spill within Ghana's maritime jurisdiction, the President may, in the national interest, direct the National Coordinator or any other private or state agency to

- (a) remove or arrange for the removal of the oil or chemical, and
- (b) undertake a clean up and mitigation.

(2) The entity that causes the pollution shall reimburse the expense that has been incurred by the State.

Removal and disposal of offshore installation

232. (1) In the interest of safety of navigation any installation located within Ghana's maritime jurisdiction unless there is dispensation from the Petroleum Commission shall, within a period of three months of the abandonment or disuse, be entirely removed by the owner or operator of that installation.

(2) An owner or operator of an installation who without just cause fails to completely remove the installation within the period specified in subsection (1), commits an offence and is liable on summary conviction to a fine of one thousand penalty units and fifty penalty units for each day that the default continues.

(3) The operator of an offshore installation is required to carry and to have security or insurance for purposes of decommissioning the installation.

(4) A person who fails to have a valid insurance or security cover is liable on summary conviction to a fine of five thousand penalty units.

Prevention and control of pollution from offshore installations

233. The Minister may, in consultation with the Minister responsible for Environment, Science, Technology and Innovation, make Regulations for the prevention and control of pollution from offshore installations.

Double hulls

234. (1) From the date of entry into force of this Act, a person who imports or operates a floating production, storage or off-loading unit or other storage facility which is located in an area within Ghana's maritime jurisdiction shall ensure that the unit or facility has a double hull.

(2) A person who imports or operates a floating production, storage or offloading unit or other storage facility and who operates the facility in an area within Ghana's maritime jurisdiction in contravention of subsection (1) commits an offence.

Establishment of Technical Committee

235. The Minister responsible for Transport may, in consultation with the Minister responsible for Environment, Science, Technology and Innovation, establish technical committees as and when necessary to consider and report on incidents of marine pollution.

Composition of Technical Committee

236. The Technical Committee consists of

- (a) a chairperson who is the Director-General of the Authority or a representative of the Director-General,
- (b) one representative each from the following Ministries not below the rank of a Deputy Director
 - (i) Ministry of Transport, and
 - (ii) Ministry of Environment, Science, Technology and Innovation,
- (c) one representative from the Attorney-General's Office not below the rank of a Principal State Attorney,
- (d) one representative from the Authority,
- (e) one representative from the Environmental Protection Agency, and
- (f) one representative from a relevant agency.

Functions of the Technical Committee

237. The Technical Committee shall

- (a) assess the compensation payable by a marine polluter;
- (b) determine and assess measures for rectification of damage caused as a result of pollution to the marine environment;
- (c) advise on any additional technical issues; and
- (d) make recommendations to forestall future occurrences that result in pollution to the marine environment.

Tenure of Technical Committee

238. A Technical Committee shall cease to operate and its membership shall terminate on the determination of a matter referred to it for advice.

Meetings of the Committee

239. (1) The Committee shall meet as and when there is the need for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one-third of the membership of the Committee, convene an extraordinary meeting of the Committee at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Committee is four members of the Committee or a greater number determined by the Committee in respect of an important matter.

(4) The chairperson shall preside at meetings of the Committee and in the absence of the chairperson, a member of the Committee elected by the members present from among their number shall preside.

(5) Matters before the Committee shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Committee may co-opt a person to attend a Committee meeting but that person shall not vote on a matter for decision at the meeting.

Disclosure of interest

240. (1) A member of the Committee who has an interest in a matter for consideration by the Committee

- (a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

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- (b) shall not participate in the deliberations of the Committee in respect of that matter.
- (2) A member ceases to be a member of the Committee, if that member has an interest in a matter before the Committee and
 - (c) fails to disclose that interest, or
 - (d) participates in the deliberations of the Committee in respect of the matter.

Rules of procedure of Technical Committee

241. The Technical Committee shall determine the rules of procedure for the Committee.

Assessment considerations

242. The Technical Committee may in the performance of its functions assess the compensation payable in relation to marine pollution under this Act only after considering

- (a) the nature, circumstances and gravity of an act or omission,
- (b) the ability of the offender to pay,
- (c) any good faith shown by the offender in attempting to achieve compliance or in mitigating harm to the environment,
- (d) the effect on the ability of the offender to continue in business, and
- (e) other relevant matters.

Appeal against decision of Technical Committee

243. (1) A decision of the Technical Committee may be subject to an appeal.

- (2) An appeal
 - (a) lies to the High Court;
 - (b) shall relate only to a point of law arising from the decision of the Technical Committee; and
 - (c) may be brought only by a party to the proceedings before the Technical Committee.

Allowances of members of Technical Committee

244. A member of the Committee shall be paid the allowances approved by the Minister responsible for Transport.

Administration of the Technical Committee

245. The Authority may provide the services of a secretary and any other staff that the Technical Committee requires for the performance of its functions.

Payment of compensation

246. The payment of compensation by an offender shall be made by certified cheque or money payable into the bank account of the Authority.

Reporting to the Minister

247. (1) The Committee shall, within six weeks of referral of a matter to the Committee, submit a report to the Minister.

(2) The Ministry may extend the period of reporting where necessary.

(3) The report shall include the recommendations of the Technical Committee.

Value of penalty unit in this Act

248. For the purposes of this Act and despite the provisions of the Interpretation Act, 2009 (Act 792) one penalty unit is twelve United States Dollars.

Regulations

249. The Minister may, by legislative instrument, make Regulations to

(a) prescribe for the following:

- (i) surveying of Ghanaian ships which are not subject to surveys under sections 52 and 53 and the issue of Ghanaian Oil Pollution Prevention Certificate;
- (ii) designation of types of oil tankers;
- (iii) segregated ballast tanks;
- (iv) crude oil washing operations;
- (v) standard discharge connection;
- (vi) oil filtering equipment;
- (vii) Oil Record Book for vessels not provided for in this Act;
- (viii) double hull and double bottom requirements;
- (ix) prevention of oil pollution from oil tankers carrying heavy grade oil as cargo;
- (x) pump-room bottom protection;
- (xi) accidental oil outflow performance;

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- (xii) damage assumptions;
 - (xiii) slop tanks;
 - (xiv) oil water interface detector;
 - (xv) crude oil washing requirements;
 - (xvi) oil discharge monitoring and control systems;
 - (xvii) pumping, piping and discharge arrangements;
 - (xviii) hypothetical outflow of oil;
 - (xix) limitation of size and arrangement of cargo tanks;
 - (xx) subdivision and damage stability;
 - (xxi) shipboard oil pollution emergency plan;
 - (xxii) the prevention of pollution from mobile off-shore drilling units;
 - (xxiii) intact stability;
 - (xxiv) segregation of oil and water ballast and carriage of oil in forepeak tanks;
 - (xxv) the prevention of pollution from offshore production, storage and offloading units or installations;
 - (xxvi) penalties;
 - (xxvii) the prevention of pollution from pipelines; and
 - (xxviii) any other matter necessary for the effective implementation of this Act;
- (b) amend or repeal a Schedule; and
- (c) give effect to any convention developed by the International Maritime Organisation on Marine Pollution.

Interpretation

250. In this Act, unless the context otherwise requires,

“Agency” means the Environmental Protection Agency established under section 1 (1) of the Environmental Protection Agency Act, 1994 (Act 490);

“agent” in relation to a ship means an agent of the owner, who is not being a managing owner, vested with a specific authority by the owner;

“Antartic area” means the sea area south of latitude 60°s;

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- “associated piping” means the pipeline from the section point in a cargo tank to the shore connection used for unloading the cargo and comprises all ship’s piping, pumps and filters which are in open connection with the cargo unloading line;
- “Authority” means the Ghana Maritime Authority established under section 1 of the Ghana Maritime Authority Act, 2002 (Act 630);
- “ballast” means a solid or liquid that is brought on board a vessel to increase the draft, change the trim, regulate the stability or to maintain stress loads within acceptable limits;
- “ballast water” means fresh or salt water, sometimes containing sediments, held in tanks and cargo holds of ships to increase stability and maneuverability during transit;
- “Bulk Chemical Code” means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environmental Protection Committee of the Organisation by resolution MEPC 20 (22), as may be amended by the Organisation and adopted and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an Annex; (“BHC Code”);
- “cargo-associated waste” includes the materials which have become waste as a result of use on board a ship for cargo stowage and handling, 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 on board that cannot be placed in a proper cargo hold and comprises among others loading excess and spillage which remains in a cargo hold and elsewhere after unloading residual and spillage procedures are completed;
- “chemical tanker” means a ship constructed or adapted primarily for the carriage in bulk of any liquid product listed in Chapter 17 of the IBC Code;

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“clean ballast” means the ballast in a tank which since oil was last carried in the tank has been so cleaned that effluent from the tank, if it were discharged

(a) from a ship which is stationary, into clean calm water on a clear day would not

(i) produce visible traces of oil on the surface of the water or on adjoining shorelines, or

(ii) cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, and

(b) through an oil discharge monitoring and control system approved by the Authority shows that the oil content does not exceed fifteen parts per million;

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

“comminuted” means the breaking or grinding up of a material to form smaller particles;

“company” means a body incorporated under the Companies Act, 1963 (Act 179) of Ghana or under the law which governs the registration of companies in any other country;

“conciliation” means the process by which parties to a dispute including future interest disputes agree to utilise the services of a conciliator who meets with the parties separately in an attempt to resolve their differences, by interpreting issues, providing technical assistance and exploring potential solutions to bring about a negotiated settlement;

“contaminated waste” includes all wastes that contain food or agricultural products the importation of which is restricted under the laws of Ghana;

“continuous feeding” means the process whereby waste is fed into a combustion chamber without human assistance while the incinerator is in normal operating condition with the combustion chamber operating at a temperature between 850°C and 1200°C;

“Court” means the High Court;

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- “court” means a court of competent jurisdiction in a country other than Ghana;
- “crude oil” includes any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and comprises among others a liquid hydrocarbon mixture of this kind from which certain distillate fractions may have been removed or added;
- “crude oil tanker” means an oil tanker engaged in the trade of carrying crude oil;
- “depth of water” means the chartered depth;
- “Director-General” means the person appointed under section 11 of the Ghana Maritime Authority Act, 2002 (Act 630) as the Chief Executive of the Authority;
- “discharge” means release of a harmful substance or effluent caused from a ship comprising among others any escape, disposal, spilling, leaking, pumping, emitting or emptying other than
- (a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Waste and other Matter, 1972, as amended;
 - (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;
- “domestic waste” means all types of food wastes, sewage and wastes generated in the living spaces on board the ship;
- “emission” means any release from a ship of a substance subject to control by sections 166 to 182 into the atmosphere at sea;
- “en route” means that the ship is under way at sea on a course which allows deviation from the shortest direct route which as far as practicable for navigation purposes will cause any discharge to be spread over a great area of the sea as is reasonable and practicable;
- “exclusive economic zone” means the zone provided by section 5(1) of the Maritime Zones (Delimitation) Act, 1986 (PNDCL 159);

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- “Executive Director” means the person appointed under section 21 of the Environmental Protection Agency Act, 1994, (Act 490) as the Chief Executive of the Agency;
- “existing ship” means a ship which is not a new ship;
- “food waste” means any spoiled or unspoiled victual substances, comprising among others fruits, vegetables, dairy products, poultry, meat products, food scraps, food particles, and other materials contaminated by these wastes, generated aboard ship, principally in the galley and dining areas;
- “from the nearest land” means from the baseline of the territorial sea of Ghana;
- “garbage” means all kinds of victual, domestic and operational waste other than fresh fish and parts of fresh fish generated during the normal operation of the ship which are to be disposed of continuously or periodically other than
- (a) substances which are defined or otherwise excluded in this Act; and
 - (b) small quantities of food wastes for the specific purpose of fish feeding in connection with fishing or tourist operations;
- “Ghanaian ship” means a ship which is
- (a) registered or licensed in Ghana under the Ghana Shipping Act, 2003 (Act 645), or
 - (b) owned by a Ghanaian but exempted under the Ghana Shipping Act, 2003 (Act 645) from being registered or licensed;
- “Ghanaian Government ship” means a ship which belongs to the Government of Ghana but does not include a ship which forms part of the Armed Forces of Ghana;
- “Ghana’s maritime jurisdiction” means the jurisdiction exercisable by Ghana within the internal waters, territorial sea, exclusive economic zone and continental shelf as defined in the Maritime Zones (Delimitation) Act, 1986 (PNDCL 159);
- “group” in relation to companies, means a holding company and its subsidiaries as defined by the Companies Act, 1963 (Act 179) subject, in the case of a company incorporated outside Ghana, to any necessary modifications of this definition;

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- “harmful substances” 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 – a substance identified as a marine pollutant in the IMDG Code and comprises among others empty packaging used previously for the carriage of a hazardous substance unless adequate precautions have been taken to ensure that they do not contain residue that is hazardous to the marine environment;
- “high seas” means all parts of the sea that are not included in the exclusive economic zone, territorial sea or internal waters of Ghana;
- “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;
- “internal waters” means the waters provided by section 3 of the Maritime Zones (Delimitation) Act, 1986 (PNDCL 159);
- “International voyage” means a voyage from Ghana to a port outside Ghana or conversely;
- “International Bulk Chemical 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 Organisation by resolution MEPC 19 (22) as may be amended and adopted by the Organisation and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an Annex (“IBC Code”);
- “International Code for the Construction and Equipment of ships carrying Liquefied Gases in Bulk” means the International Code for Construction and Equipment of ships Carrying Liquefied Gases in Bulk, 1983 as amended (“IGC Code”);
- “International Maritime Dangerous Goods Code” means the International Maritime Dangerous Goods Code adopted

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- by the Organisation by Resolution A.716(17) as amended by the Maritime Safety Committee of the Organisation;
- “International Oil Pollution Prevention Certificate” means an International Oil Pollution Prevention Certificate issued under this Act or under MARPOL;
- “International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk” means the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under section 107;
- “Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage, 1992;
- “Liability Convention Country” means a Country in respect of which the Liability Convention is in force;
- “Liability Convention State” means a State which is a party to the Convention;
- “liquid substances” means those substances having a vapour pressure not exceeding 0.28 MPa absolute at a temperature of 37.8°C;
- “maintenance waste” means materials collected by the engine department and the deck department while maintaining and operating the vessel, comprising among others, soot, machinery deposits, scraped paint, deck sweeping, wiping wastes and oily rags;
- “major conversions” means a conversion of an existing ship
- (i) which substantially alters the dimensions or carrying capacity of the ship;
 - (ii) which changes the type of the ship;
 - (iii) the intent of which in the opinion of the Authority is substantially to prolong its life; or
 - (iv) which otherwise so alters the ship that if it were a new ship it would be subject to the relevant provisions of this Act which are not applicable to an existing ship;
- “maritime casualty” means a collision of ships, stranding or

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- other incident of navigation, or other occurrence on board a ship or external to it that results in material damage or imminent threat of material damage to the ship or cargo;
- “MARPOL” means International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention and Protocols and Annexes to them and any amendments that may be in effect for Ghana;
- “master” includes every person who lawfully has, for the time being, command or charge of a ship;
- “Minister” means the Minister responsible for maritime affairs;
- “new installations” in relation to section 182 (1) (a) means the installation of systems, equipment including new portable fire-extinguishing units, insulation, or other material on a ship after the date on which sections 166 to 182 enter into force, other than repair or recharge of previously installed systems, equipment, insulation, or other material, or recharge of portable fire extinguishing units;
- “noxious liquid substances” means a ship constructed or adapted to carry a cargo of noxious liquid substances in bulk;
- “NO Technical Code” means the Technical Code on control of Emission of Nitrogen Oxides from Marine Diesel Engines adopted by conference resolution 2 as may be amended by the Organisation;
- “offshore installation” means any man-made structure, plant or vessel or a part of the structure, plant or vessel whether floating or fixed to the sea bed and which is placed within Ghana’s maritime jurisdiction for the purpose of exploration, appraisal or exploitation of liquid and gaseous hydrocarbons;
- “oil” means persistent hydrocarbon mineral oil and comprises among others crude oil, fuel oil, heavy diesel oil and lubricating oil whether carried on board a ship as cargo or in the bunkers of the ship;

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- “oil fuel” means any oil used as fuel in connection with the propulsion and auxiliary machinery of the ship in which the oil is carried;
- “oily mixture” means a mixture with any oil content;
- “oily rags” means rags which have been saturated with oil as controlled under Chapter Two of Part Four;
- “oil pollution emergency plan” means a contingency plan other than the National Oil Spill Contingency Plan setting out arrangements for responding to incidents which cause or may cause marine pollution by oil, with a view to preventing the pollution or reducing or minimising its effect;
- “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;
- “oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and comprises among others
- (a) a combination carrier;
 - (b) any Noxious Liquid Substance tanker as defined in Chapter Three of Part Four;
 - (c) any gas carrier when carrying a cargo or part cargo of oil in bulk;
- “operator” in relation to an oil handling facility, includes a person having, for the time being, the management of this facility in Ghana, and in relation to an offshore installation, includes any person who manages the installation;
- “operational waste” includes all cargo associated wastes and maintenance waste and comprises among others ash and clinkers and cargo residues;
- “Organisation” means the International Maritime Organisation;
- “owner” includes the person registered as the owner of the ship or, in the absence of registration, the person owning the ship, a bareboat charterer and a managing owner except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

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“owner” in relation to a ship includes a demise or bareboat charterer and a managing owner;

“Ozone depleting substances” means controlled substances defined in paragraph 4 of Article 1 of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 listed in Annexes A, B, C or E to the said Protocol in force at the time of application or interpretation of this Act and in relation to ships comprise among others of the following;

Halon 1211	Bromochlorodifluoromethane
Halon 1301	Bromotrifluoromethane
Halon 2402	1,2-Dibromo-1,1,2,2-tetrafluoroethane (also known as Halon 114B2)
CFC- 11'	Trichlorofluoromethane
CFC-12 /	Dichlorodifluoromethane
CFC- 11 3	1,1 ,2-Trichloro- 1 ,2,2-trifluoroethane
CFC- 114	1 ,2-Dichloro- 1,1 ,2,2-tetrafluoroethane
CFC-115	Chloropentafluoroethane

“packaged form” means the forms of containment specified for harmful substances in the International Maritime Dangerous Goods Code;

“permit” means permission granted in advance and in accordance with relevant measures adopted pursuant to section 20;

“pollution” means the introduction, directly or indirectly, by human activity, of wastes or other matter into the sea which results or is likely to result in a deleterious effect or 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;

“ppm” means parts per million;

“product carrier” means an oil tanker engaged in the trade of carrying oil other than crude oil;

“Protocol of 1997” means the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships 1973 as amended by the Protocol of 1978 relating to the same subject;

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- “public interest” means a right or advantage which enures or is intended to enure to the general benefit of the people of this country;
- “reception facility” means any facility which is used for the reception of oil, mixtures and residues, noxious liquid substances, sewage or garbage at a port or terminal;
- “relevant agency” means an agency that may be of technical, operational or jurisdictional relevance to the incident, occurrence or action and may comprise among others the Environmental Protection Agency, Ghana Atomic Agency, Department of Oceanography of the University of Ghana, Ghana Navy, Air Force or the Ghana Ports and Harbours Authority;
- “relevant threat of contamination” means the contamination defined in section 200 (2) or 201 (2);
- “Safety Convention” means the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1978, Torremolinos International Convention on Safety of Fishing Vessels, 1977 and its Protocol of 1993, together with amendments or replacement as may be in effect in respect to Ghana;
- “sea” means all marine waters other than the internal waters of Ghana, as well as the seabed and the subsoil of the sea other than subseabed repositories accessed only from land;
- “sea port and oil handling facility” means those facilities which present a risk of an oil pollution incident and comprises among others sea ports, oil terminals, pipelines and other oil handling facilities;
- “Secretary-General” means the Secretary-General of the Organisation;
- “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 cargoes other than oil or noxious substances as variously defined in other sections of this Act;

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“sewage” includes

- (a) drainage and other wastes from any form of toilets and urinals;
- (b) drainage from medical premises such as dispensary, sick bay, through wash basins, wash tubs and scuppers located in the premises;
- (c) drainage from spaces containing living animals; or
- (d) other waste water when mixed with the drainage defined above;

“ship” means any sea-going vessel or sea-borne craft of any type constructed or adopted for the carriage of oil in bulk as cargo but a ship capable of carrying oil and other cargoes is regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following the carriage unless it is proved that it has no residues of the carriage of oil in bulk aboard;

“shipboard incineration” means the incineration of wastes or other matter on board a ship, if the wastes or other matter were generated during the normal operation of that ship;

“shipboard incinerator” means a shipboard facility designed for the primary purpose of incineration;

“short voyage” means a voyage where neither the distance from the port in which the voyage begins and the final part of destination nor the return voyage exceeds one thousand miles;

“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 fifty tonnes or one per cent of the estimated mass of all structural material, whichever is less;

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

“sludge oil” means sludge from the fuel or lubricating oil separators, waste lubricating oil from main or auxiliary machinery or waste oil from bilge water separators, oil filtering equipment or drip trays;

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- “special area” means a sea area where the Organisation, for technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic, requires the adoption of special mandatory methods for the prevention of sea pollution by oil;
- “sulphur oxides emission control area” means an area where the adoption of special mandatory measures for sulphur oxides emissions from ships is required to prevent, reduce and control air pollution from sulphur oxide and its attendant adverse impacts on land and sea areas;
- “tanker” means a ship constructed to transport liquid in bulk;
- “territorial sea” means the territorial sea of Ghana as provided by section 1 of the Maritime Zones (Delimitation) Act, 1986 (PNDCL 159);
- “tonnage regulations” means the Tonnage Regulations made under section 21(1) of the Ghana Shipping Act, 2003 (Act 645);
- “UNCLOS” means the United Nations Convention on the Law of the Sea 1982;
- “undue delay” means a delay that is unreasonable and unnecessary in the 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;
- “vessel and aircraft” means waterborne or airborne craft of any type including air-cushioned craft and floating craft, whether self-propelled or not;
- “voyage” means a voyage to, or from Ghana to a port outside Ghana;
- “wastes or other matter” means material and substance of any kind, form or description; and
- “waste” means useless, unneeded or superfluous matter which is to be discarded.

Recovery of fines

251. (1) Where a person is convicted of an offence in this Act and the fine relating to the conviction is not paid within forty-eight hours, the fine shall be a debt owed to the Republic by the convicted person and the Authority may enter into execution for recovery of the debt .

(2) Sections 32 to 34 of the Borrowers and Lenders Act, 2008 (Act 773) apply to the recovery of a debt under this section.

(3) Where the Authority recovers a debt under this section, the Authority shall retain twenty-five percent of the sum recovered to cover the cost of the recovery and as internally generated funds.

Modification of existing law

252. Any enactment in force before the commencement of this Act shall apply with the necessary modifications to give effect to this Act.

Repeal, savings and transitional provisions

253. (1) The Oil in Navigable Waters Act, 1964 (Act 235) is repealed.

(2) Despite the repeal of the Oil in Navigable Waters Act, 1964 (Act 235) any instrument, Regulation, order, or notice made, issued, served or granted under the repealed enactment or any valid law in existence and in force immediately before the commencement of this Act shall continue to be in force until they are revoked, amended or cancelled, except that a person who has been issued a licence under the repealed enactment shall unless otherwise provided for in this Act apply for a renewal of the licence within sixty days after the commencement of this Act.

(3) In this section “instrument” means a licence, certificate, permit, validation, exemption notice or any other authority issued, made or given.

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MEMORANDUM

The maritime domain of Ghana is an important natural resource for the country. It serves as a means of transportation between Ghana and other countries and thus facilitates the export and import of goods to and from Ghana. The majority of exports are carried by sea and pass through the two ports in the country.

The sea is the major source of livelihood for a large number of Ghanaians who live along the coast. These coastal communities depend on fish from the sea to support themselves and their families. Fish provides the Ghanaian consumer with about sixty percent of animal protein needs and is consumed by almost all groups in society as a daily staple. There are also Ghanaians who harvest tuna from the sea both for local processing and for export. The marine environment has a huge impact on their lives and incomes. The fisheries sector contributes significantly to the socio-economic development of the country.

Our sea is also a major source of mineral resources. The recent oil find within our exclusive economic zone testifies to this. Ironically, this major oil find also poses a serious threat to our marine environment. It increases the likelihood of oil spills with its consequent damage to the marine environment.

Apart from this threat to the marine environment, other threats like the washing of chemical from the hold of ships into the sea also exists. The ships that ply our seas also provide a constant threat of oil leakage into the sea.

Considering the huge economic importance of the sea to Ghana, particularly to the livelihood of its fishermen and other persons who live along the coast and to tourism, there is the need for Ghana to ensure the protection of its marine environment.

For the sake of its economic well-being and for the sake of the livelihood of its fisher folk and its tourism, Ghana cannot help but do all it can to safeguard its marine environment from the various sources of pollution.

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In this regard, Ghana has signed and ratified various Conventions related to the protection of the marine environment. These Conventions can only be meaningful if they are incorporated in our domestic law.

It is for these reasons that this Bill has been proposed. It is hoped that with the passage of the Bill, the legal framework created will enable the appropriate structures to be established and proper rules to be applied to safeguard our marine environment.

The Maritime Pollution Bill apart from protecting the national interest in relation to the marine environment, also aims to consolidate existing international Conventions on marine source pollution. Additionally the Bill seeks to develop a regulatory framework to support efforts to preserve the marine environment in the light of the discovery of oil off the coast of Ghana. The Bill will repeal the Oil in Navigable Waters Act of 1964, (Act 235) that has since become obsolete and inadequate to provide the appropriate regulatory framework required.

The United Nations Convention on the Law of the Sea, 1982 (UNCLOS) provides rights and obligations for member states in respect of the marine environment amongst other matters. To this end, the International Maritime Organisation has developed a number of Conventions seeking to provide a uniform global approach to protect and preserve the marine environment.

Conventions for the protection of the marine environment fall into three broad categories; marine environment protection, response, liability and compensation.

The following Conventions which have been ratified by Ghana have been incorporated into this Bill: International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to it (MARPOL 73/78) (Annexes 1-VI); the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Dumping Convention), 1972; the International Convention Relating to Intervention on the High Seas in cases of Oil Pollution Casualties (Intervention Convention); Oil Pollution Preparedness Response and Co-operation Convention (OPRC); The 1992 Civil Liability

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Convention (CLC); and the International Oil Pollution Compensation Fund 1992 (Fund '92').

MARPOL is the main international Convention on the prevention of pollution of the marine environment by ships from operational or accidental causes. MARPOL was adopted on 2nd November 1973 by the International Maritime Organisation and covers pollution by oil, chemicals, harmful substances in packaged form, sewage, garbage and emissions. The Protocol of 1978 relating to the 1973 International Convention for the Prevention of Pollution from Ships (1978 MARPOL Protocol) was adopted at a Conference on Tanker Safety and Pollution Prevention in February 1978 held in response to a spate of tanker accidents in 1976-1977. Measures related to tanker design and operation were also incorporated in the Protocol of 1978.

As the 1973 MARPOL Convention had not yet entered into force, the 1978 MARPOL Protocol absorbed the parent Convention. The combined instrument is referred to as the International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to it (MARPOL 73/78).

The Convention currently includes six technical Annexes:

Annex I	Regulations for the Prevention of Pollution by Oil
Annex II	Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk
Annex III	Prevention of Pollution by Harmful Substances Carried by Sea In Packaged Form
Annex IV	Prevention of Pollution by Sewage from Ships
Annex V	Prevention of Pollution by Garbage from Ships
Annex VI	Prevention of Air Pollution from Ships

The Bill fully incorporates MARPOL and its annexes by providing for the following among others: Annex 1: Regulations for the Prevention of Pollution by Oil. Conditions for operational discharges of oil from tankers. An oil record book to record the movement of cargo oil and its residues from loading to discharging on a tank-to-tank basis. The maximum quantity of oil permitted to be discharged on a ballast voyage.

An important feature of the Bill is the incorporation of the concept of "special areas" from MARPOL. These areas are considered to be so

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vulnerable to pollution by oil that oil discharges within them have been completely prohibited with minor and well-defined exceptions. The Convention identified the Mediterranean Sea, the Black Sea, and the Baltic Sea, Red Sea and the Gulf areas as special areas.

Segregated ballast tanks are required on all new tankers of twenty thousand dwt and above. The tanks are required to be located “protectively” that is in such a way as to help protect the cargo tanks in the event of a collision or grounding.

Another important innovation concerns Crude Oil Washing which had been developed by the oil industry. Under this, tanks are washed with crude oil - the cargo itself not with water. This system is accepted as an alternative to segregated ballast tanks on existing tankers and is an additional requirement on new tankers.

Regulations for improved stripping systems have been introduced and it is mandatory for new oil tankers to have double hulls. There are strict regulations for the survey and certification of ships. All vessels within the scope of the Bill must carry on board valid international certificates that may be accepted at foreign ports as prima facie evidence that the ship complies with the requirements of the Convention.

If there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate, or if the ship does not carry a valid certificate, the authority carrying out the inspection may detain the ship until it is satisfied that the ship can proceed to sea without presenting unreasonable threat of harm to the marine environment.

Annex II of MARPOL on the control of pollution by noxious liquid substances is included in the Bill. These clauses detail the discharge criteria and measures for the control of pollution by noxious liquid substances carried in bulk.

Some two hundred and fifty substances were evaluated by the International Maritime Organisation and included in the list appended to the Bill. The discharge of residues into the sea is only allowed if certain concentrations and conditions which vary with the category of substances are complied with. Otherwise all discharges must be made into reception facilities. In any case, no discharge of residues containing noxious substances is permitted within twelve miles of the nearest land.

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Annex III of MARPOL on the prevention of pollution by harmful substances in packaged form is included in the Bill. These clauses contain general requirements for the issue of detailed standards on packing, marking, labelling, documentation, stowage, quantity limitations, exceptions and notifications to prevent pollution by harmful substances.

Annex IV on the prevention of pollution by sewage from ships contains requirements to control pollution of the sea by sewage and Annex V on the requirements to prevent pollution by garbage from ships are also included in the Bill.

These clauses deal with different types of garbage and specifies the distance from land and the manner in which the garbage may be disposed of. The requirements are much stricter in a number of “special areas”. The most important feature is the complete ban imposed on the dumping into the sea of all forms of plastic.

Annex VI on the prevention of air pollution from ships is also included in the Bill. This Chapter sets limits on sulphur oxide and nitrogen oxide emissions from ships and other marine installation exhausts and prohibits deliberate emissions of ozone depleting substances.

Other Conventions incorporated by the Bill are as follows:

The 1996 Protocol to the London Convention seeks to control the dumping of wastes and toxic chemicals and other material into the sea. By adopting the Convention, the Bill prescribes a “precautionary approach” that prohibits all dumping unless expressly permitted. The incineration of waste at sea and the export and import of waste for dumping or incineration at sea are prohibited.

The 1973 Protocol to the international Convention related to Intervention on the High Seas in Cases of Oil Pollution Casualties has been incorporated into the Bill. These provisions grant the power and provide the framework within which the State can take measures on the high seas 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 and other substances following a maritime casualty.

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The Bill also incorporates the provisions of the Oil Pollution Preparedness Response and Co-operation Convention which is designed to help Governments combat major oil pollution incidents. The Convention is designed to facilitate international co-operation and mutual assistance in preparing for and responding to a major oil pollution incident. The Bill also establishes a regulatory framework for oil pollution preparedness and response.

The 1992 Civil Liability Convention governs the liability of ship-owners for oil pollution damage. In line with the “polluter pays principle”, this Convention provides for strict liability of shipowners for oil pollution damage. The shipowner however is entitled to limit liability to an amount equal to the tonnage of the ship.

The International Oil Pollution Compensation Fund 1992 was established to provide compensation for victims who do not obtain full compensation under the Civil Liability Convention. The Fund is financed from contributions levied on any person who has received more than one hundred and fifty thousand tonnes of crude oil or heavy fuel oil after sea transport in a calendar year in a 1992 Fund member State. The maximum amount payable for any one incident is 203 million special drawing rights.

The Bill establishes a duty to report discharges of oil into the waters of a harbour and other internal waters. Additionally the Bill gives the Minister power to make Regulations regarding hazardous and noxious chemicals.

The Minister is also required to make Regulations in respect of marine installations such as mobile offshore drilling units and fixed or floating storage, production and offloading units. Under the Bill, it is mandatory for operators of marine installations including oil rigs, platforms, production, storage and offloading units to have liability insurance.

Clause 1 is on the application of the Bill. The Bill applies to Ghanaian ships irrespective of where the ship is. It also applies to non-Ghanaian ships while they are in a port, offshore terminal or a place within the territorial waters of Ghana and other maritime zones. The Bill further applies to offshore installations. The Bill also applies to a master and seaman employed in the ship and to the Republic.

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However, the Bill does not apply to a ship that belongs to the Government which is engaged in government non-commercial service, naval auxiliary or other ship owned, or operated by a State and used for the time being only on government non-commercial service.

Clause 2 deals with the regulatory authority for the Act which is the Ghana Maritime Authority.

Clause 3 to 5 deals with notification of imminent or actual damage, measures related to seaworthiness of vessels and contraventions by vessels within the territorial sea or exclusive economic zone. *Clause 3* empowers the Authority to immediately notify other States and the International Maritime Organisation of imminent danger or damage by pollution to the marine environment that it becomes aware of.

Clause 4 provides measures to prevent pollution. The Authority is empowered to prevent a vessel from sailing after it has ascertained that the vessel within a port or offshore terminal is in contravention of a law of Ghana that relates to its seaworthiness or poses a threat to the marine environment.

Clause 5 empowers the Authority to undertake the physical inspection of a vessel suspected to be in contravention of this Act and institute legal proceedings including detention of the vessel. Furthermore, a vessel which is suspected to have contravened the provisions of the Bill concerning Ghana's exclusive economic zone may be requested by the Authority to give information that relates to the vessel's identity, port of registry, the last and next port of call as well as any other relevant information required to establish whether a violation has occurred.

Clause 6 deals with the monitoring of risks or effects of pollution. The Authority is to collaborate with the Environmental Protection Agency and other relevant agencies directly or through the International Maritime Organisation to observe, measure, evaluate and analyse by recognised scientific methods the risks or effects of pollution of the marine environment.

Under *clause 7*, the Authority is mandated to provide written reports of results obtained at appropriate intervals to the International Maritime Organisation, the Environment Protection Agency and other relevant agencies.

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Under *clause 8*, the Authority is mandated to assess planned activities within the purview of the International Maritime Organisation which are likely to cause pollution. A relevant agency may on notification to the Authority, also assess planned activities under the jurisdiction of the country which are likely to cause pollution

This group of clauses, *clause 9 to 15* deal with intervention on the high seas. *Clause 9* empowers the Minister on the advice of the Authority to take measures that relate to pollution. The measures to be taken by the Minister on the high seas, are required to be necessary to prevent, mitigate or eliminate the 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. The clause excludes the taking of the measures against a Ghana government ship which is on government non-commercial service and a warship or other ship owned or operated by a State and which is used only for government non-commercial service.

Clause 10 provides for the duties of the Minister. The Minister before taking a measure under *clause 9*, is to consult other States affected by the maritime casualty, particularly the State where the vessel is registered.

Subclause (2) enjoins the Minister to give notice of a measure proposed to be taken to a person, authority or body known to have an interest and that is likely to be affected by the measure. The Minister is to take into account their views, if any. Provision is also made for consultation with independent experts chosen from a list maintained by the International Maritime Organisation. However, in cases of extreme urgency, the Minister is to take the necessary measures without giving prior notice or consulting any person required to be given notice or consulted.

The underlying considerations in taking measures are that risk to human life is avoided, persons in distress are given assistance and the facilitation of the repatriation of the crew of a ship.

Clause 11 is on nomination of experts and the Minister may submit nominations to be put on the list of experts referred to in *clause 10 (3)*.

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Clause 12 among others, provides that measures taken by the Minister are to be proportionate to the actual damage or threatened damage to Ghana, should not go beyond what is reasonably necessary to prevent, mitigate or eliminate the danger and should not interfere with the rights and interests of the State where the ship is registered, a third State and any entity concerned.

Under *clause 13*, a person who suffers damage as a result of a measure taken by the Minister which is in excess of what is necessary to prevent, mitigate or eliminate the danger is entitled to compensation which is equivalent to the extent of the damage.

Clause 14 is on rights preserved whilst *clause 15* provides for the settlement of disputes. In the event of a dispute, the parties involved should go through negotiation, conciliation or arbitration as a last resort.

Clause 16 to 31 of the Bill deals with prevention of maritime pollution by dumping of wastes and other matter at sea.

Clause 16 applies to provisions on the dumping of wastes at sea to the internal waters of Ghana and the type and nature of the materials dumped into those waters. The Director-General is to communicate the information provided to the International Maritime Organisation.

Clause 17 deals with administration. The Authority in collaboration with relevant agencies is to apply the precautionary approach to environmental protection from dumping of waste or other matter by adopting appropriate prevention measures when necessary.

Clause 18 deals with persons responsible for environmental matters. The Authority is to collaborate with other relevant agencies and adopt more stringent measures than these clauses provide with respect to elimination of pollution in accordance with the Act.

Clause 19 prohibits the dumping of waste except in accordance with the laid down procedure. *Clause 20* provides that dumping permits for the dumping of wastes or other matter are to be issued by the Authority. The clause further empowers the Authority to issue a permit in respect of

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waste intended for dumping or incineration at sea if the waste is loaded in Ghana or loaded on a vessel or aircraft registered in the country or flying the country's flag when the loading occurs in the territory of a State which is not a party to the Convention. Subclause (3) provides for the conditions that the Authority is to impose and any additional criteria, measures or requirements that the Authority considers relevant.

Clause 21 provides for the obligations of an authorised person. A person authorised to engage in dumping or incineration at sea is to bear the cost of meeting the pollution prevention and control requirements for the authorised activity, have regard for the public interest and not cause damage or do anything that is likely to cause damage to the environment or transform one type of pollution into another.

Clause 22 imposes an obligation on the Authority to notify the Organisation of instances where dumping of waste or other matter listed in the Third Schedule is permitted.

Clause 23 prohibits the incineration of waste or other matter at sea, whilst *clause 24* prohibits the export of waste or other matter to other countries for dumping or incineration at sea.

Clause 25 deals with exceptions in cases of force majeure. In instances of force majeure or where there is a danger to human life or a real threat to a vessel, aircraft, offshore installation or other man-made structure at sea, dumping or incineration at sea is to be allowed to secure the safety of human life and the vessel.

Clause 26 provides for exceptions in case of other emergencies which pose a serious threat to human health, safety or the marine environment and to which there is no other feasible solution. In such instances, dumping or incineration may be allowed. The exemption to be granted the permit holder is to be issued after consultation with other relevant agencies by the Authority.

Subclauses (3) and (4) deal with the recommendations of the Organisation on the issues which are to be implemented taking into account the time within which action needs to be taken and damage to the marine environment can be avoided.

Clause 27 provides for offences which attract a fine of not less than three thousand penalty units and not more than fifteen penalty units or a term of imprisonment of not more than ten years or both.

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Clause 28 deals with record keeping and reporting. The Authority is enjoined to keep records of the nature and quantity of waste or other matter for which it issues a dumping or incineration permit. Others are the quantity actually dumped, the location, time and method of dumping employed. The Authority is also to monitor the condition of the sea in collaboration with other State parties to the Convention. *Subclauses (2) and (3)* provide that the Authority is to communicate to other State parties and the Secretary-General of the Organisation, the records, measures taken and effectiveness of those measures annually and at regular intervals.

Clause 29 to 31 deal with co-operation that relates to enforcement, liability for dumping at sea and dispute settlement respectively. Under *clause 29*, the Authority is to co-operate with other agencies in the development of procedures for the effective application of the Convention.

Clause 30 makes the legal and equitable principles applicable under the law relating to liability and compensation for maritime pollution damage and the principles of international law regarding State responsibility for damage to the environment applicable to cases of liability arising from dumping or incineration at sea.

Clause 31 makes provision for the interpretation of clauses and terms used in Part Three of the Bill .

The next group of clauses deal with the prevention of pollution from ships. *Clause 32 to 41* deals with general provisions. *Clause 32* states the scope and application of the *clauses* in this Part of the Bill. It applies to Ghanaian and other ships operating within the internal waters, territorial sea or exclusive economic zone of this country but does not apply to a ship which belongs to the government and which is engaged in government non-commercial service. It does not also apply to a warship, naval auxiliary or other ship owned or operated by a State which is used for the time being only on government non-commercial service.

Clause 33 provides for contraventions and the institution of legal proceedings or imposition of sanctions by the Authority for a contravention of a provision on pollution from a ship.

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Clause 34 provides for certificates and special rules on inspection of ships. The clause enjoins the Authority to accept certificates issued in accordance with MARPOL or under the authority of a State where MARPOL is in force as having the same validity as a certificate issued under these clauses. The ship which holds the certificate is subject to inspection by officers authorised by the Authority while in a port or offshore terminal of the country.

Subclause (3) states that the inspection is to be limited to verification that there is a valid certificate on board unless there are grounds to believe that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate. The Authority is empowered to detain and prevent a ship from sailing if the ship's condition shows that it is not fit to travel. The clause further requires the Authority to consult the government of the State concerned before denying the ship entry to a port or offshore terminal of this country.

Clause 35 deals with the detection of contraventions and enforcement. The Authority is to co-operate with governments of States party to MARPOL for the detection of these contraventions. They are to use appropriate and practicable means approved by the International Maritime Organisation for the detection of contraventions and environmental monitoring. Others include the use of adequate procedures to report and the accumulation of evidence of enforcement. An inspection of a ship under these clauses is to be done by officers appointed or authorised by the Authority to verify whether the ship has discharged any harmful substance in contravention of the Act. The clause further provides the procedure to be followed where a contravention has occurred.

Clause 36 provides for undue delay to ships. The Authority is to take measures that are necessary to ensure that undue detention or delay of a ship is avoided. The clause also makes provision for the payment of compensation to a ship for any loss or damage suffered by the ship.

Clause 37 provides for reports on incidents involving harmful substances. A report is to be made to the Authority by a master or person in charge of a ship on any incident that involves a discharge of oil or noxious liquid substances from a ship which is above the permitted level for the purpose of securing the ship's safety or saving life at sea. Incidents that involve the discharge of harmful substances in packaged form whether

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in freight containers, portable tanks or in any other form of package are also to be reported to the Authority immediately the incidents occur.

The report should be given the highest possible priority and be communicated by the fastest telecommunications channels available through the nearest coastal State. The report must contain the identity of the ships involved, the time, type and location of the incidents, the quantity and type of harmful substance involved and the assistance received and salvage measures taken. The clause further empowers the Minister to make Regulations for the procedures to be followed in reporting an incident based on guidelines developed by the International Maritime Organisation.

Clause 38 provides for the communication of information by the Authority to the Organisation regarding this Part and any subsidiary legislation passed under these clauses as well as a list of nominated surveyors or recognised organisations authorised to act on behalf of the Authority in the administration of matters relating to the design, construction, equipment and operation of a ship which carries a harmful substance.

The clause provides for other important information that must be communicated, such as the specific responsibilities and conditions of the delegated authority, list of reception facilities, official reports or summaries of such reports which show the results of the application of these clauses and an annual statistical report of penalties actually imposed for contravention of the clauses.

Clause 39 empowers the Authority to investigate any incident that involves a Ghanaian ship to which the group of clauses apply if the casualty produces a major deleterious effect on the marine environment.

Clause 40 empowers the Authority to enter into agreements with international organisations and other countries for the purpose of pursuing technical co-operation.

Clause 41 deals with dispute settlement. Any dispute that arises between this country and another country where MARPOL is in force is to be submitted to arbitration unless the parties decide otherwise.

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Clause 42 to 72 deals with the prevention of pollution by oil. *Clause 42* applies the clauses to all Ghanaian ships and other ships in Ghana's maritime jurisdiction.

Clause 43 deals with equivalents. The Authority is to allow a fitting, material, appliance or apparatus to be used as an alternative to that required by these clauses and specified in MARPOL resolution A.393 (X) if the fitting, material, appliance or apparatus is at least as effective as that required in these *clauses*.

The clause provides the procedure to be followed when an alternative is allowed by the Authority. The Authority is to communicate to the Organisation the particulars of the alternative allowed for information and appropriate action, if any.

Clauses 44, 45 and 46 deal with surveys. The surveys dealt with are initial, renewal, intermediate and annual surveys. An initial survey is to be done before the ship is put in service or before the International Oil Pollution Prevention Certificate is issued for the first time and it includes a complete survey of the structure, equipment, systems, fittings and arrangements of the ship.

A renewal survey is to be carried out at intervals of five years to ensure that the structure, equipment, systems, fittings, arrangements and material comply with applicable requirements of the clauses.

An intermediate survey is to be carried out within three months before or after the second anniversary date or within three months before or after the third anniversary date of the issue of the Certificate.

In addition to these surveys, an annual survey is to be conducted within three months before or after each anniversary date of the Certificate. This survey includes a general inspection of the ship's structure, equipment, systems, fittings, arrangements and material to ensure that they have been maintained in good condition and remain satisfactory for the service for which the ship is intended.

Clause 46 deals with additional surveys which may be general or partial as the circumstances require, if the ship is repaired after an accident or suffers a defect which affects the integrity of the ship. The survey is to

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ensure that the necessary repairs or renewals have been made, the materials and workmanship are satisfactory and the ship complies in all respects with the requirements of these clauses.

Clause 47 provides for nominated surveyors and recognised institutions. The officers of the Authority are mandated to carry out the initial, renewal, intermediate and annual surveys. The Authority may however entrust these surveys either to surveyors who are nominated and appointed for the purpose and organisations recognised by the Authority. An appointed surveyor or an organisation entrusted to do a survey may, as a minimum, require repairs to a ship and carry out surveys and inspections. The Authority is to notify the Organisation of the specific responsibilities of the surveyors or organisations and conditions of the authority delegated to them.

Clause 48 provides for corrective action which a surveyor or organisation is to require to be done on a ship, if it is determined that the condition of the ship or its equipment does not correspond with the particulars in the Certificate or the ship is not fit to proceed to sea without presenting an unreasonable threat to the marine environment.

Under *clause 49*, where corrective action required in *clause 48* is not taken, the certificate of the ship is to be withdrawn. The Authority is enjoined to ensure that the ship does not sail until it can proceed to the nearest repair yard available without presenting an unreasonable threat of harm to the marine environment.

Clause 50 deals with the provision of assistance to other States where MARPOL is in force whilst *clause 51* provides for maintenance of a ship. The clause states that the condition and equipment of a ship issued with a Certificate under the Act which is in force is to be maintained at all times after the surveys to ensure compliance with the provisions of MARPOL and Regulations made under the Act.

Clause 52 deals with reports of accidents and defects. Where a ship is involved in an accident or where a ship is found to be defective which affects the ship's integrity or the efficiency of its equipment, the owner or master of the ship is to give written notice to the Authority, or recognised organisation or the appointed surveyor responsible for the issue of the International Oil Pollution Prevention Certificate.

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Clause 53 to 56 deals with the International Oil Pollution Prevention Certificate, issue or endorsement of the certificate at the request of a government where MARPOL is in force and the form, duration and validity of the Certificate. An International Oil Pollution Prevention Certificate is to be issued after an initial or renewal survey and endorsed either by the Authority or any person or organisation authorised by the Authority. The Authority may at the request of the government of a country where MARPOL is in force cause a ship to be surveyed and issue, authorise or endorse the issue of the Certificate as appropriate. Where a request is made for a survey, a copy of the survey report and a copy of the Certificate is to be transmitted to the authority of the government which made the request, *clause 54*.

Clause 55 specifies the form of the Certificate whilst *clause 56* states the duration and validity of the Certificate as five years.

Clause 57 deals with transfer of a Ghanaian ship to the flag of a country where MARPOL is in force. The Authority is to transmit a copy of the Certificate and if available, a copy of the ship's most recent survey report to the government of the country concerned where the country makes the request within ninety days after the transfer has taken place.

Clause 58 deals with control of discharge of oil. The clause prohibits the discharge of oil or oily mixtures by an oil tanker registered in this country or a foreign ship in Ghanaian waters. The clause however permits the discharge of oil or oily mixtures from an oil tanker if the tanker is not within a special area and if the tanker is more than fifty nautical miles from the nearest land.

Clause 59 provides for ships less than four hundred gross tonnage. This clause allows ships of four hundred gross tonnage or less to retain oil or oily mixtures on board for subsequent discharge to reception facilities or discharge into the sea subject to conditions.

Clause 60 to 63 deal with voyages partly through a special area, special provision for the Antarctic area, prohibition of chemical discharge and investigations. The Authority is empowered to carry out an investigation in collaboration with other relevant agencies, if visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship, *clause 63*.

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Clause 64 to 66 provides for retention of oil residue on board, tanks for oil residue and exceptions. Oil residues which cannot be discharged into the sea in accordance with the Act are to be retained on board and discharged to reception facilities.

Clauses 67 and 68 make provision for reception facilities and their location. The Authority is required to ensure that adequate reception facilities for oil mixtures are provided in oil loading terminals, repair ports and other ports where crude oil is loaded into oil tankers which prior to arrival at the port or terminal, have completed a ballast voyage of not more than seventy-two hours or not more than one thousand, two hundred nautical miles. Subclause (2) of clause 67 enjoins a ship with inadequate reception facilities to pay to the Authority, an administrative fee of one thousand penalty units and five hundred penalty units for each month that the default continues.

Clause 69 provides for regulations to be made for capacities of reception facilities whilst *clause 70* enjoins the Authority to notify the Organisation of cases of reception facilities provided in this country which are alleged to be inadequate.

Clause 71 makes provision for an Oil Record Book which a Ghanaian oil tanker of one hundred and fifty gross tonnage or more is to have. The Oil Record Book is to be in the form specified in the Seventh Schedule and maintained as part of the ship's official log book. The record book is to be completed on each occasion and on a tank-to-tank basis when ballasting or cleaning of oil fuel tanks has been carried out, when oil cargo is loaded, where internal transfer of oil cargo during a voyage is carried out or during the unloading of oil cargo, among others.

Clause 72 provides for special requirements for drilling rigs, offshore installations and other platforms. A fixed or floating drilling rig or other platform engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources is to be equipped with the required installations. They are also enjoined to keep a record of all operations involving oil or oil mixture discharges in a form approved by the Authority.

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Clauses 73 and 74 provide for shipboard oil pollution emergency plan and offences respectively. A Ghanaian oil tanker which weighs one hundred and fifty gross tonnage or more or a Ghanaian ship which weighs four hundred gross tonnage or more is to carry on board a shipboard oil pollution emergency plan. An owner or master of an oil tanker or ship who contravenes this clause is liable to pay to the Authority an administrative penalty of six hundred penalty units.

Clause 75 to 116 deal with prevention of pollution by noxious liquid substances in bulk. *Clause 75* applies the clauses to ships which carry noxious liquid substances in bulk.

Clause 76 deals with the conversion of a ship to a chemical tanker. A ship converted to a chemical tanker irrespective of the date of conversion is to be treated as a chemical tanker constructed on the date on which the conversion commenced.

Clause 77 provides for modification or delay of application of amendments. The application of an amendment to these clauses, the International Bulk Chemical Code and the Bulk Chemical Code which involves changes to the structure, equipment and fittings due to the upgrading of the requirements may be modified or delayed for a specified period by the Authority.

Clause 78 provides for equivalents. The Authority is to allow a fitting, material, appliance or apparatus to be fitted as an alternative to that required if the fitting, material, appliance or apparatus is as effective as that required to be fitted. The clause does not allow the substitution of operational methods for the control of noxious liquid substances as equivalent to the design and constructional features provided for in the clauses.

Clauses 79 and 80 provide for the categorisation of noxious liquid substances into categories X, Y and Z and other liquid substances. Category X consists of noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations, would present a major hazard to marine resources or human health. Category Y consists of those substances which in the same circumstances, would present a hazard to marine resources or human health or cause harm to amenities or other legitimate uses of the sea. Category Z consists of the substances

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which in the same circumstances, would present a minor hazard to marine resources or human health.

Clause 81 deals with provisional assessment and categorisation of substances. The Authority is to co-operate with governments of other countries where MARPOL is in force where a liquid substance which is not categorised is to be carried, to establish and agree on a provisional assessment for the proposed operation on the basis of established guidelines. The clause states that until agreement is reached between the Authority and the governments concerned, the substance is not to be carried.

Clause 82 states that the discharge of clean or segregated ballast is not subject to the requirements specified in clause 75 to 116.

Clause 83 makes provision for procedures and arrangement manual. A ship certified to carry Category X, Y or Z substances is to have on board a manual approved by the Authority. The purpose of the manual is to identify for the ship's officers, the physical arrangements and operational procedures which relate to cargo handling, tank cleaning, slop handling and cargo tank ballasting and deballasting. The owner or master of a ship who contravenes *clause 83* is liable to pay to the Authority an administrative penalty of three hundred penalty units.

Clauses 84 and 85 deal with the discharge of residues assigned to Category X, Y or Z into the sea and discharge standards respectively. The residues of those substances or ballast water, tank washings or other mixtures are to be discharged into the sea if the ship is proceeding at a speed of at least seven knots for self-propelled ships or at least four knots for ships which are not self-propelled.

Clause 86 deals with ventilation of cargo residue. The Authority is to approve of the ventilation procedure to be used to remove cargo residues from a tank.

Under *clause 87*, a master of a ship may make a request to the Authority for an exemption from a pre-wash if the cargo is unloaded in Ghana. The conditions attached to the grant of the exemption are that, the unloaded tank should neither be washed nor ballasted at sea and the

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unloaded tank is to be reloaded with the same substance or another substance compatible with the previous one.

Clause 88 provides for the use of cleaning agents or additives. Where a washing medium other than water which includes mineral oil or chlorinated solvent is used instead of water to wash a tank, the provisions of *clause 42 to 74 or 75 to 116* are to apply.

Clause 89 deals with discharge of residues of Category X. The clause spells out the conditions to be applied for the discharge of residues of Category X and includes the washing of the tank from which the substance was unloaded and the continued discharge of any remaining tank washings to the reception facility until the tank is empty. Subclause (2) permits water which has been introduced into the empty tank after the procedures in subclause (1) have taken place to be discharged into the sea in accordance with *clause 85(1)*.

Clause 90 deals with discharge of residues of Category Y and Z. The residue of a Category Y or Z substance is to be discharged in accordance with the standards laid down in *clause 85 (1)*. The clause specifies the procedure to be followed when the unloading of a Category Y or Z substance is not carried out in accordance with the manual.

A noxious liquid substance or a mixture containing the substance is not to be discharged into the sea in the Antarctic area, *clause 91*.

Clause 92 provides for operational requirements for ballasting and deballasting. A cargo tank may be ballasted after unloading in a port or terminal in this country and if required after a pre-wash. A ballast introduced into a cargo tank which has been washed to the extent that the ballast contains less than one ppm of the substance carried previously, may be discharged into the sea without regard to the discharge rate, the ship's speed and discharge outlet location if the ship is not less than twelve nautical miles from the nearest land and in water that is not less than twenty-five metres deep.

Clause 93 specifies the pumping, piping and unloading arrangements prescribed by Regulations and which all ships under these clauses are to comply with.

Clause 94 states the exceptions. *Clauses 84, 85, 89 and 91* do not apply to the discharge of noxious liquid substances or mixtures which contain substances necessary to secure the safety of a ship or saving life

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at sea or a discharge which results from damage to a ship or its equipment where reasonable precautions are taken after the occurrence of the damage or discovery of the discharge to prevent or minimise the discharge.

Clause 95 provides for reception facilities for noxious liquid substances. The operators of ports and harbours are to provide at ports and terminals or repair ports in this country adequate facilities for the reception of residues and mixtures which contain noxious liquid substances. Where an operator of a port and harbour facilities contravene subclause (1), the operator is liable to pay to the Authority an administrative penalty of one thousand five hundred penalty units for each month that the default continues.

Clause 96 deals with arrangements at cargo unloading terminals. A person in charge of a port or terminal is to ensure that arrangements to facilitate the stripping of cargo tanks of ships which unload noxious liquid substances and also cargo hoses and piping systems which contain these substances are not drained back to the ship.

Clause 97 enjoins the Authority to give notice of the location, type and capacity of every reception facility under the clauses.

Clause 98 deals with measures of control. The Authority is to appoint or authorise surveyors to execute measures of control with respect to noxious liquid substances. Masters of ships are also enjoined under the clause to ensure that the discharge provisions specified in these clauses are complied with.

Clause 99 provides for a Cargo Record Book to be kept either as part of the ship's official logbook or otherwise and to be in the form specified in the Eleventh Schedule. The Cargo Record Book is to be completed on a tank to tank basis whenever certain operations with respect to noxious liquid substances take place in a ship. These operations include loading, unloading and internal transfer of cargo, cleaning of cargo tanks and ballasting of cargo tanks. The Cargo Record Book is to contain entries signed by the officer in charge of the operation concerned and the master of the ship is to sign each page.

Clause 100 provides for the usual surveys which are initial, renewal, intermediate, annual and additional. The intermediate and annual

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surveys are to be endorsed on the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.

Clause 101 deals with nominated surveyors and recognised organisations appointed by the Authority to conduct surveys. The clauses empower them to require corrective action or repairs to a ship and carry out the surveys and inspections on the request of the appropriate authority of a country where MARPOL is in force.

Clause 102 provides for the corrective action that a surveyor or organisation may ensure to be taken whilst the Authority is empowered to withdraw the Certificate if the corrective action required is not taken, *clause 103*. *Clause 104* deals with assistance to countries where MARPOL is in force.

Clause 105 provides for the maintenance of conditions of a ship. The clause enjoins the owner, master or agent of a ship under these clauses to ensure that the condition of the ship is maintained to conform with the specified requirements and to ensure that after a survey, no change is made to the structure, equipment, systems, fittings, arrangements or material covered by the survey without the prior approval of the Authority.

Clause 106 equally enjoins the owner, master or agent of the ship to report any accident or defect to the Authority at the earliest opportunity or the recognised organisation or the surveyor appointed for the purpose.

Clause 107 to *110* deals with the Noxious Liquid Substances Certificate which is issued to a Ghanaian ship engaged in a voyage to a port or offshore terminal of a country where MARPOL is in force. The certificate is to be issued after an initial or renewal survey has been conducted and after the requirements of the Regulations made under *clause 116* have been complied with.

The Authority is fully responsible for a certificate issued by it or any other person under this clause. The certificate issued by a country where MARPOL is in force is to have the same force and receive the same recognition in this country as a certificate issued under these clauses. The certificate is to be in the form prescribed in the Twelfth Schedule and is valid for five years from the date of issue.

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Clause 111 deals with transfer of flag. Where a Ghanaian ship is transferred to the flag of another country where MARPOL is in force and when the country makes a request within ninety days after the transfer, the Authority is to transmit to the government of that country, a copy of the certificate carried by the ship before the transfer and if available a copy of the ship's most recent survey report.

Clause 112 provides for survey and certification of a chemical tanker. The clause gives a chemical tanker which has been surveyed and issued with a certificate in accordance with the International Bulk Chemical Code or the Bulk Chemical Code the same force or recognition as a certificate issued under these clauses.

Clause 113 specifies the requirements to minimise accidental pollution and makes the clause applicable only to a Ghanaian ship certified to carry noxious liquid substances in bulk as identified in the International Bulk Chemical Code.

A ship is to be designed, constructed, fitted with equipment and operated in a manner which minimises the uncontrolled discharge into the sea of those noxious substances. The Authority is empowered to establish appropriate measures based on guidelines developed by the Organisation for ships other than chemical tankers carrying Category X, Y or Z substances in bulk.

Clause 114 provides for shipboard marine pollution emergency plan for noxious liquid substances. The plan is to consist of the procedure to be followed by the master of a ship or other person having charge of a ship to report a noxious liquid substance pollution incident. Others are the list of authorities or persons to be contacted in the event of a noxious liquid substance pollution incident, a detailed description of the action to be taken immediately to reduce or control the discharge of the substance and the procedures and point of contact on the ship for co-coordinating shipboard action with national and local authorities in combating pollution. *Clauses 115* and *116* deal with offences and Regulations respectively.

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Clause 117 to 127 deal with the prevention of pollution by harmful substances carried by sea in packaged form. *Clause 117* is on application, whilst *clause 118* prohibits the carriage, shipment and jettisoning of harmful substances. A ship is not to carry harmful substances in packaged form except in accordance with the specified provisions nor is a person to ship or offer for shipment from a port of this country, a harmful substance in packaged form.

Clause 119 deals with packing. Packages for carrying harmful substances are to be constructed in a manner and with materials that are adequate to minimise the hazard posed to the marine environment having regard to their specific contents.

Clause 120 provides for the marking and labelling of packages which contain harmful substances with the correct technical name. The technical and trade names are to be used to identify a harmful substance. Packages containing marine pollutants are to bear the special marine pollutant mark. Packages containing small quantities of the harmful substances may be exempted from the marking requirements in accordance with the International Maritime Dangerous Goods Code.

Clause 121 provides for documentation. This clause requires that the correct technical name is used in a document that relates to the carriage of a harmful substance by sea. Furthermore, the substance should be identified by the addition of the words “MARINE POLLUTANT”. A shipping document supplied by a supplier is to include or be accompanied with a signed certificate or declaration that the shipment for carriage is properly packaged, marked or labelled as appropriate and in proper condition for carriage to minimise the hazard to the marine environment.

“Document” is defined to include information made available through the use of electronic data processing and electronic data interchange transmission techniques as an aid to paper documentation.

Clause 122 provides that a harmful substance is to be properly stowed and secured to minimise the hazards to the marine environment without impairing the ship’s safety and persons on board.

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Clause 123 specifies the quantity limitations for the carriage of specified harmful substances on board a ship. Consideration is to be given to the size, construction and equipment of the ship as well as the packaging and inherent nature of the substance.

Under *clause 124*, the Minister by legislative instrument is to make Regulations for requirements on packing, marking, labelling, documentation, stowage and quantity limitations. Others include measures to be taken based on the physical, chemical and biological properties of a harmful substance to regulate the washing of leakages overboard and inspections of a ship under these clauses to ensure compliance.

Clauses 125, 126 and 127 deal with exceptions, offences and interpretation respectively. *Clause 127* defines harmful substances as substances identified as marine pollutants in the International Maritime Dangerous Goods Code and includes empty packaging which has been used previously for the carriage of those substances unless adequate precautions have been taken to ensure that they do not contain any residue that is harmful to the marine environment.

Clause 128 to 143 deals with the prevention of pollution by sewage from ships. *Clause 128* states the application. The clauses apply to Ghanaian ships which are new and weigh four hundred gross tonnage or more, ships which are new and weigh less than four hundred gross tonnage and are certified to carry more than fifteen persons.

The clauses are also applicable to existing ships of four hundred gross tonnage or more certified to carry fifteen persons or more, two years after the commencement of the Act.

Clause 129 deals with the surveys to be conducted which include initial, renewal and additional surveys. The initial survey is a complete survey of the structure, equipment, systems, fittings, arrangements and materials of the ship whilst an additional survey may be general or partial and is to be carried out when an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship.

Clause 130 is on Regulations to be made by the Minister. Areas covered are sewage treatment plants, holding tanks and systems to comminute and disinfect sewage.

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The issue of an International Sewage Pollution Prevention Certificate is dealt with under *clause* 131. The Certificate is to be issued after the relevant surveys have been carried out. Another condition for the issue of the Certificate is compliance with the applicable requirements of the Regulations referred to in *clause* 130.

Clause 132 provides that the Authority, when requested by the government of a country where MARPOL is in force is to cause a ship to be surveyed and issue or authorise the issue of the Certificate or authorise the endorsement of the Certificate.

Clauses 133 and 134 deal with the form and duration or validity of the Sewage Pollution Prevention Certificate.

Clause 135 provides for discharge controls and states that sewage is not to be discharged into the sea unless certain conditions have been met. These are the comminution and disinfection of the sewage or discharge at a rate approved by the Authority based on standards developed by the Organisation.

Clause 136 deals with public notice of standards. It is mandatory for sewage discharge standards to be posted in a conspicuous place on board a Ghanaian ship to which these clauses apply and the crew of the ship are to undergo training to comply with the standards. The owner or master of a ship who fails to ensure that sewage discharge standards are posted in a conspicuous place on board or who fails to ensure that the crew of the ship undergo the necessary training is liable to pay to the Authority an administrative penalty of two hundred penalty units and one thousand penalty units respectively.

Clause 137 deals with exceptions. The discharge standards are not applicable if discharge of sewage from the ship is necessary to secure the safety of the ship and lives of those on board or save life at sea.

Clause 138 provides that a port or terminal in Ghana is to provide accessible and adequate sewage reception facilities whilst *clause* 139 sets out the standard discharge connections.

Clause 140 provides for the inspection of sewage reception facilities. The inspection is to be done at least once a year by the Authority or a person designated by the Authority for the purpose. In cases of non-compliance, the Authority is to serve a notice on the owner, occupier or operator of the facility requiring compliance within a period specified by the Authority.

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The Authority is also enjoined to notify the Organisation of all cases of inadequate sewage reception facilities, *clause* 141.

By *clause* 142, failure to comply with a requirement of *clause* 128 to 143, any Schedule or Regulations is an offence and the offender is liable to a fine of not less than five hundred penalty units and not more than five thousand penalty units.

Clause 143 defines words used in *clause* 128 to 143. These include “holding tank,” “anniversary date,” “sewage” and “existing ship”.

Clause 144 to 165 deals with prevention of pollution by garbage from ships. *Clause* 144 applies the clauses to a Ghanaian ship wherever it may be, any other ship while it is in Ghana’s maritime jurisdiction and a fixed or floating platform.

Clause 145 defines among others “Antarctic area” as the sea area south of latitude 60°s and “special areas” to include 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 comprising the Gulf of Mexico and the Caribbean Sea.

Clause 146 prohibits the disposal of plastic wastes into the sea. Subclause (2) defines plastic waste for the purposes of the clause to include synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products which contain toxic or heavy metal residue.

Under *clause* 147, a person is not to dispose into the sea outside a special area, dunnage, lining and packing materials which float, within twenty-five nautical miles from land.

Clause 148 deals with disposal of garbage from offshore installation or storage facility. Under the clause, garbage is not to be disposed of from an offshore installation or storage facility engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources or from a ship which is alongside or within five hundred metres of the offshore installation or storage facility.

Clause 149 deals with disposal of garbage within a special area. The clause prohibits the disposal into the sea within a special area of garbage

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including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials, into the sea within a special area.

Clause 150 provides for the disposal of waste within the Wider Caribbean region. Food waste is to be disposed into the sea within the Wider Caribbean region if the food waste is passed through a comminuter or grinder, the food waste is capable of passing through a screen with openings of not more than twenty-five millimetres and is discharged beyond three nautical miles from land.

Clause 151 deals with mixed wastes and provides that more stringent requirements are to apply where garbage is mixed with other discharges having different disposal or discharge requirements.

Clause 152 makes a special provision for the Antarctic area and prohibits the entry of a Ghanaian ship into the Antarctic area if the ship does not have sufficient capacity on board to retain garbage while it operates in the area.

Clause 153 provides for exceptions and states that clause 146 to 151 are not applicable to the disposal of garbage from a ship where the disposal is necessary to secure the safety of the ship, secure the safety of persons on board or save lives at sea. Also, where there is accidental loss of synthetic fishing devices and reasonable precautions are taken to prevent the loss, then *clause 146 to 151* are not applicable.

Clause 154 to 156 provides for the provision of adequate and accessible garbage reception facilities, their inspection and the notice to be given in cases of inadequate facilities. *Clause 157* provides that a ship of twelve metres or more in length is to display a notice which informs the crew and passengers of the disposal requirements of *clauses 146, 149 and 150*. The notice is to be in English, for Ghanaian ships and in English, French or Spanish for ships which are engaged in international voyages to ports or offshore terminals in countries where MARPOL is in force.

Clause 158 deals with the provision of a garbage management plan for a ship of four hundred gross tonnage or more and a ship certified to carry fifteen persons or more. The contents of the plan include the

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provision of written procedures for the collection, storage, processing and disposal of garbage and the use of the garbage equipment on board. The plan is to designate the person responsible for carrying out the plan and is to be in English and in accordance with the guidelines developed by the Organisation.

Clause 159 provides for a Garbage Record Book which is to be in the form specified in the Sixteenth Schedule to be kept on board a ship of four hundred gross tonnage or more and a ship certified to carry fifteen persons at a place that makes it available for inspection and preserved for at least two years after the last entry made in it. The officer in charge of a ship is to record each discharge operation or completed incineration in the book and sign the record on the date of incineration. Other information to accompany the entry of each incineration or discharge includes the date and time of the incineration or discharge, the position of the ship, description of the garbage and the estimated amount of garbage incinerated or discharged. An officer who contravenes this clause is liable to an administrative penalty of two hundred penalty units for each entry that should have been recorded. Additional requirements include, for instance, the need by the master of the ship to sign each completed page of the book. The owner or master of a ship or an offshore installation, who contravenes subclause (1) shall pay to the Authority an administrative penalty of five hundred penalty units.

Under *clause 160*, the Authority may waive the requirements of having a Garbage Record Book for a ship if the ship which is certified to carry fifteen persons or more is engaged on a voyage of one hour or less in duration.

Clause 161 deals with inspection of the Garbage Record Book. The Authority or a designated person is to inspect the book on board a Ghanaian or any other ship while the ship is in a port or offshore terminal in Ghana.

Clause 162 provides for regional co-operation. The Authority is to co-operate with other States of the West African Sub-region on issues related to land disposal sites and facilities. Other areas of co-operation are the establishment of consistent waste handling, recycling, minimisation, disposal and treatment standards and procedures.

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Clause 163 enjoins the Authority within ninety days after the commencement of this Act, to give notice to owners and agents of Ghanaian ships of the garbage discharge prohibitions and restrictions provided for in these clauses.

Clauses 164 and 165 deal with offences and Regulations. Matters for regulation include the criteria to determine the adequacy of garbage reception facilities at ports and terminals and measures to be adopted to ensure adequacy and accessibility without causing undue delay to ships.

The next group of *clauses, clause 166 to 182* deals with the prevention of air pollution from ships. *Clause 166* applies the clauses to all ships which are not expressly exempted in a particular clause under the Act.

Clause 167 states the exceptions on application. The clauses are not to apply to an emission which is necessary to secure the safety of a ship or save lives at sea or which results from damage to a ship or its equipment if all reasonable precautions are taken after the occurrence of the damage or discovery of the emission to prevent or minimise the emission.

Clause 168 deals with equivalents. A fitting, material, appliance or apparatus is to be fixed to a ship as an alternative to that required by these clauses if the fitting, material, appliance or apparatus is at least as effective as that required by these clauses.

Clause 169 is on surveys and inspections. A Ghanaian ship of four hundred gross tonnage or more or an offshore installation and a storage facility is to have an initial survey to ensure that the equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of these clauses. Other surveys to be carried out are renewal, intermediate, annual and additional surveys.

Clause 170 provides for corrective action whilst *clause 171* deals with the maintenance of equipment of a ship and notice of change of condition. The owner and master of a ship are responsible for the maintenance of the ship at all times and a change is not to be made to the equipment, systems, fittings, arrangement or materials covered by the survey without the express approval of the Authority.

Clause 172 deals with issue of the International Air Pollution Prevention Certificate. The Authority is empowered to issue the certificate

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after an initial or intermediate survey has been conducted to a ship which is engaged in a voyage to a port or offshore terminal of a country where MARPOL is in force and an offshore installation or storage facility in waters under the jurisdiction of a country which is party to the 1997 Protocol.

Clause 173 provides that an International Air Pollution Prevention Certificate issued at the request of a country where the 1997 Protocol is in force is to contain a statement to the effect that it was issued at the request of that country and a copy of the survey report and the Certificate is to be transmitted to the Government as soon as possible.

Clauses 174 and 175 deal with the form and duration of the Certificate. The Certificate is valid for five years from the date of issue. The clause provides for grant of an extension for a period of three months to enable the ship complete its voyage to the port in which it is to be surveyed and where it is proper and reasonable to grant a further extension for a period not exceeding five months.

Clause 176 deals with invalidity of a certificate. When an inspection or a survey is not carried out within the specified period or if the Certificate is not endorsed in accordance with the Act or on the transfer of the ship to the flag of another country, the Certificate ceases to be valid.

Clause 177 deals with the transmission of an International Air Pollution Prevention Certificate. The Authority is to transmit to the government of a country where the 1997 Protocol is in force, a copy of the International Air Pollution Prevention Certificate where a Ghanaian ship is transferred to that country.

Clause 178 to 182 deals with the provision and inspection of a reception facility, notice of inadequate facilities, offences and Regulations respectively.

Clause 183 to 193 deal with oil pollution preparedness, response and co-operation. *Clause 183* is on the application of these clauses. The clauses do not apply to a government ship which is engaged on government non-commercial service and a warship, naval auxiliary or other ship owned or operated by a State which is used only on government non-commercial service.

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Clause 184 mandates a ship registered in Ghana and a foreign ship in this country's waters, to have on board the ship an oil pollution emergency plan approved in accordance with procedures established by the Authority.

An operator of an offshore unit, a person in charge of a sea port or an oil handling facility and a ship owner or master who does not have an oil pollution emergency plan is liable to pay to the Authority, an administrative penalty of six hundred penalty units.

Clause 185 provides for pollution reporting procedures. A master, person in charge of a ship registered in this country or an offshore unit within Ghana's maritime jurisdiction is to report any event which involves a discharge or probable discharge of oil on the ship, offshore installation or at sea.

An officer of the Authority, Ghana Navy, Air Force, Police Service, Customs, Excise and Preventive Service as well as the Immigration Service is to report to the Authority without delay any event at sea or at a sea port or oil handling facility which involves the discharge of oil or presence of oil.

Clause 186 provides for action on receipt of the oil pollution report. The Authority is to assess the event to determine whether it is an oil pollution incident and if it is, assess the nature, extent and possible consequences of the incident. Other procedures include informing States whose interests are affected or likely to be affected by the oil pollution incident and provide information on action taken and intended to be taken to deal with the incident.

The Authority is to provide the Organisation directly or through the regional organisation with details of the incident. The Authority is to use the reporting system developed by the Marine Environmental Protection Committee of the Organisation for the exchange of information and communicating with other States and the Organisation.

Clause 187 provides for national and regional systems for preparedness and response. It establishes a national system for the prompt and effective response to oil pollution incidents and makes the National Co-ordinator

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responsible for marine pollution preparedness and response and national operational contact point. Others are, to act on behalf of the Government and to request assistance or to decide to render assistance requested.

The National Co-ordinator is mandated to either unilaterally, bilaterally or multilaterally co-operate with oil and shipping industries, port authorities and other relevant entities to establish a minimum level of pre-positioned oil spill combating equipment commensurate with the risk involved and the programmes for its use. Other areas of co-operation include the establishment of a programme of exercises for oil pollution response organisations and training of personnel.

Clause 188 provides for international co-operation in pollution response. A State party to the Convention is to request the National Co-ordinator to provide advisory services, technical support or equipment to respond to a serious oil pollution incident.

Clause 189 provides for research and development. The National Co-ordinator is to co-operate directly or through the relevant regional organisation or arrangements, in the promotion and exchange of results of research and development programmes. These programmes and research are to relate to the state of the art oil pollution preparedness.

Clause 190 deals with technical co-operation between the National Co-ordinator and State parties to train personnel and ensure the availability of relevant technology, equipment and facilities. Other areas include facilitation of other measures and arrangements for the preparation and response to oil pollution incidents and the initiation of joint research and development programmes.

Clause 191 provides that the National Co-ordinator is to enter into a bilateral or multilateral arrangement for oil pollution preparedness and response and send copies of the relevant instruments or documents related to the arrangement to the Organisation.

Clause 192 deals with relation to other provisions. *Clause 193* provides the interpretation for words and terms used in chapter eight of the fourth part of the Bill.

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The next group of clauses, *clause* 194 to 212 deals with liability and compensation for pollution damage. *Clause* 194 states that a reference to the owner of a ship in relation to damage or cost resulting from the discharge is a reference to the owner at the time of the occurrence or the first occurrence which resulted in the discharge or escape.

The clause empowers the Minister to publish in the *Gazette* a notice of States which are party to the Liability Convention and this is conclusive evidence that that State is a party to the Liability Convention.

Clause 195 provides for liability for oil pollution by tankers. The owner of a ship from which oil is discharged or oil escapes is liable for damage caused by contamination of the sea resulting from the discharge or escape in Ghana's maritime jurisdiction. Other areas of liability are the cost of measures reasonably taken after the discharge or escape to prevent or minimise the damage caused and damage caused in Ghana's maritime jurisdiction by the measures taken.

Clause 196 provides for liability for oil pollution for other ships. Where oil escapes or is discharged from a ship which creates a relevant threat of contamination, the owner of the ship is liable for the cost of any measure reasonably taken to prevent or minimise the damage in Ghana's maritime jurisdiction and is equally liable for damage caused outside the ship in Ghana's maritime jurisdiction by the measures taken.

Clause 197 deals with exceptions from liability under *clauses* 195 and 196. The owner of a ship under *clauses* 195 or 196 is not liable for a discharge or escape of oil from the ship if the owner proves that the discharge, escape or relevant threat of contamination is as a result of an act of war, hostility, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon. *Clause* 198 provides for restriction of liability for oil pollution.

Clause 199 deals with limitation of liability under *clause* 195. The owner of a ship who incurs a liability under *clause* 195 may limit that liability to a sum that does not exceed the relevant amount. The *clause* defines "relevant amount" to mean "in relation to a ship that does not exceed five thousand tons, four million five hundred and ten thousand special drawing rights."

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Clause 200 deals with limitation actions. The owner of a ship who incurs a liability may apply to court for the limitation of that liability. The Court is to determine the limit of the liability and direct payment into a fund established for that purpose in respect of that limit. The Court is also to determine other amounts in respect of liability to other claimants in the proceedings and direct the distribution of the amount paid into Court.

The clause further states that the amount is to be paid in United States dollars and for the purpose of converting the amount from special drawing rights into United States dollars, one special drawing right is to be treated as equal to the sum fixed by the International Monetary Fund as the equivalent of one special drawing right.

Clause 201 provides for restriction on enforcement after establishment of a limitation fund. A court is to order the release of a ship or other property seized in connection with a claim in respect of that liability or security given to prevent or obtain release from the arrest if the court finds that the person who has incurred the liability is entitled to limit that liability.

Clause 202 provides for concurrent liability of owners and other persons. *Clause 203* deals with a limitation fund established outside Ghana. The clause makes *clauses 201* and *202* applicable where the events that resulted in the person's liability also resulted in a corresponding liability under the law of another Liability Convention country.

Clause 204 provides for extinguishment of claim. A person is not to be compensated for damage suffered as a result of pollution if the claim for compensation is brought after a period of three years. An action for compensation is not to be brought after six years from the date of the incident which caused the damage.

Clause 205 provides for compulsory insurance against liability for pollution. Subclause (2) is applicable to a ship which carries in bulk a cargo of more than two thousand tons of oil of a description specified in Regulations. A ship is not to enter or leave a port or terminal in Ghana or in the territorial sea of Ghana unless that ship has a certificate and

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which shows that the ship is covered by a contract of insurance or other financial security. The certificate must be issued by the Authority, be in English and in the form specified in the Twentieth Schedule. For a ship registered in a Liability Convention country other than Ghana, the certificate must also be issued by or under the authority of the government of that other Liability Convention country.

Clause 206 deals with issue of certificate by the Authority. The Authority is to issue the certificate on being satisfied that there will be a contract of insurance in force in respect of the ship throughout the period of validity of the ship.

Clause 207 provides for rights of third parties against insurers. Where it is alleged that the owner of a ship with the certificate required by *clause 205* has incurred a liability, action may be brought to enforce a claim in respect of the liability against the person who provided the insurance or other security. In proceedings against an insurer, it is an additional defence to prove that the discharge or escape is due to the wilful misconduct of the owner.

Clause 208 deals with the jurisdiction of a Ghanaian court and registration of foreign judgments. A court in this country is not to entertain any action for a claim for relevant damage or cost against the ship's owner, unless there is damage from an act or omission.

Clause 209 provides for government ships. *Subclause (1)* makes *clause 194 to 212* inapplicable in relation to warships or ships used by government for non-commercial purposes. In relation to a ship owned by a State and which is being used for commercial purposes, *clause 205 (2)* is complied with if the ship has a certificate issued by the government of that State that shows that the ship is owned by that State and that any liability for pollution damage will be met by the State.

Clause 210 deals with limitation of liability under *clause 196*. A liability incurred under *clause 196* is a liability for damages in respect of damage to property under the Shipping Act, 2003 (Act 645).

Clause 211 provides for recourse action. *Clause 194 to 212* are not to affect a claim or enforcement of a claim a person who incurs liability under these clauses may have against another person in respect of that liability. *Clause 212* provides for the interpretation of words and terms used in that chapter.

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Chapter Two of Part Five deals with international oil pollution compensation fund. *Clause* 213 defines discharge or escape of oil for the purpose of the clauses.

Clause 214 deals with contributions by oil importers and others. The clause enjoins an importer of oil or a person on whose behalf oil is carried by sea to a port or terminal installation in Ghana to pay a contribution to the Fund in respect of the oil received. The Authority is also mandated to require a person who is liable to pay contribution to provide security for payment to the Fund.

Clause 215 deals with power to obtain information. The Authority, by notice is to require a person engaged in the production, treatment, distribution or transportation of oil to furnish information that provides the names and addresses of persons liable to make contributions to the Fund for a particular year. The information is to cover the quantity of oil in respect of which those persons are liable.

Clause 216 provides for liability of the Fund. The Fund is made liable for pollution damage in Ghana's maritime jurisdiction if the person who suffers the damage is unable to obtain full compensation because the discharge or escape which created the relevant threat of contamination or caused the damage was due wholly to the act or omission of another person who is not a servant or agent of the owner with the intent to do damage, or as a result of an exceptional, inevitable and irresistible phenomenon.

Other reasons include the inability of the owner or guarantor who is liable for the damage to meet the obligations in full or the damage where it is in excess of the liability.

Clause 217 deals with limitation of liability of the Fund under *clause* 216. The Fund's liability under the clause is subject to the limits imposed by Article 4 paragraphs 4 and 5 of the Fund Convention.

A certificate given by the Director of the Fund which states that paragraph (4) (c) of Article 4 of the Fund Convention is applicable to a claim under *clause* 216 is conclusive evidence for the purposes of these clauses. A step taken to obtain payment of an amount or a reduced amount in pursuance of the judgment is to ensure that payment is in United States dollars.

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Clause 218 deals with jurisdiction and effect of judgment. Notice of a judgment that is final and enforceable given to the Fund in proceedings against an owner or guarantor in respect of liability under *clause 196* is binding on the Fund even if the Fund has not intervened in the proceedings.

Clause 219 deals with the extinguishment of claims. Actions for enforcement of claims against the Fund are not to be entertained by the court in Ghana unless action is commenced not later than three years after the claim against the Fund arose or a third party notice of action to enforce the claim against the owner or guarantor of the owner is given to the Fund.

Clause 220 provides for subrogation. A sum paid by the Fund as compensation for pollution damage enables the Fund acquire by subrogation, rights in respect of the damage which the recipient has or would have had against any other person but for the payment.

Clause 221 deals with supplementary provisions as to proceedings involving the Fund. A proceeding by or against the Fund is to be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative. A document certified to be a true copy is to be received in evidence without proof of the official position or handwriting of the person who signed the certificate.

Chapter Three of Part Five, consisting of *clause 222* to *224* deals with enforcement. *Clause 222* applies specified parts of the Shipping Act, 2003(Act 645) to all matters which fall within the scope of this Act.

Clause 223 is on restriction on jurisdiction over offences committed outside the country's limits. Proceedings are not to be instituted in this country for an offence committed as a result of a contravention of a provision of this Act by a foreign ship in relation to a discharge in the internal waters, territorial seas or exclusive economic zone of another state unless the flag State which has suffered damage requests that proceedings be taken or the discharge has caused or is likely to cause pollution in Ghana's maritime jurisdiction or exclusive economic zone.

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Clause 224 provides for suspension of proceedings at flag State request. A proceeding, instituted for an offence by a foreign ship in relation to a discharge outside Ghana or its territorial sea or exclusive economic zone is to be stayed if the court is satisfied that the flag State has instituted proceedings which correspond to the proceedings in Ghana within six months after the institution of proceedings in Ghana. The clause gives an exception where the discharge resulted in major damage to Ghana or where the Authority certifies that the flag State has repeatedly disregarded its obligation to effectively enforce the requirements specified in this Act.

Chapter Four of Part Five deal with miscellaneous matters. *Clause 225* provides for a duty to report a discharge of oil into waters of a harbour. A duty is placed on the owner or master of a ship or the occupier of the place on land where oil or a mixture which contains oil is discharged from a ship into the waters of a harbour in Ghana to report the incident to the Ports and Harbours Authority.

The report is to state whether the discharge is from a ship into the waters of a harbour in Ghana or the oil or a mixture which contains oil is found to be escaping or to have escaped from a ship into the waters of Ghana or the oil or a mixture which contains oil is found to be escaping or to have escaped into the waters of Ghana from a place on land.

Clause 226 deals with discharge of oil into the internal waters of Ghana other than waters of a harbour. A discharge of oil or a mixture which contains oil into the internal waters of Ghana other than waters of a harbour, from a ship, place on land or from an apparatus used for the transfer of oil from a ship is an offence.

Clause 227 provides for insurance for operators of an offshore installation or a storage facility. An owner or operator of an offshore installation or storage facility is to take out an insurance policy before that owner or operator commences operation in Ghanaian waters including the exclusive economic zone. The policy is to cover that owner or operator's liability arising out of any pollution damage that occurs.

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An owner or operator of an existing offshore installation or storage facility is also enjoined within one month after the commencement of this Act to take out an insurance policy to cover the owner or operator's liability for pollution damage in Ghanaian waters and the exclusive economic zone.

Clause 228 deals with the discharge of oil from pipelines or as a result of exploration or exploitation. The discharge of oil or a mixture which contains oil into the sea from a pipeline or source other than a ship, as a result of any operation for the exploration or the exploitation of a natural resource of the sea-bed or its subsoil is an offence.

Clause 229 deals with the transfer of oil. This clause prohibits a person from transferring oil or engaging in other transfer of oil, petroleum or other substance, without the approval of the Authority. An application for the Authority's approval is to be submitted to the Authority at least forty-eight hours before the transfer.

Clause 230 restricts the transfer of oil in a harbour or port unless notice has been given. However, the *clause* does not apply to the transfer of oil for the purpose of saving life or property. The notice is to be given to the harbour master not less than three hours and not more than ninety-six hours before the transfer begins. The notice is also to specify the place where and the period within which the transfer will take place.

Clause 231 mandates the President to direct the National Co-ordinator or any other private or state agency to remove or arrange for the removal of oil or chemical and undertake clean up and mitigation where there is an oil or chemical spill within Ghana's maritime jurisdiction. The entity that causes the pollution is enjoined to reimburse the expense that has been incurred by reason of the pollution.

Clause 232 provides for removal and disposal of an offshore installation. The owner or operator of an abandoned or disused platform located within the waters of Ghana and the exclusive economic zone is to remove that platform within three months after the abandonment or disuse of the platform. Failure to comply constitutes an offence and liability to a fine of one thousand penalty units and five hundred penalty units for each day that the default continues.

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Clause 233 enables the Minister, in consultation with the Minister responsible for Environment, Science, Technology and Innovation, to make Regulations for the prevention and control of pollution from offshore installations.

Clause 234 enjoins a person who imports or operates a floating production, storage or off-loading unit or other storage facility located within Ghana's maritime jurisdiction, to ensure that the unit or facility has a double hull.

Clause 235 to 247 deals with the establishment and operations of the Technical Committee.

Clause 235 empowers the Minister responsible for Transport to act in consultation with the Minister responsible for Environment, Science, Technology and Innovation to establish technical committees. The Minister is empowered to establish a technical committee as and when necessary to consider and report on incidents of maritime pollution.

Clause 236 deals with the composition of the Technical Committee, whilst *clause 237* spells out the functions of the Committee. The tenure of the Technical Committee and the meetings of the Committee are set out in clauses 238 and 239 respectively.

Clause 240 requires a member of the Committee who has an interest in a matter before the Committee to disclose that interest. The member is also prohibited from participating in the deliberations of the Committee in respect of that matter.

Clause 241 enjoins the Technical Committee to determine the rules of procedure for the Committee.

Clause 242 empowers the Technical Committee in performing its functions, to assess the compensation payable in relation to maritime pollution under the Bill, after taking into consideration certain factors.

Clause 243 empowers a party to a proceeding before the Technical Committee to appeal to the High Court on a point of law arising from the decision of the Committee.

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Clause 244 deals with the allowances of the members of the Committee, whilst *clause 245* details the provisions that deal with the administration of the Committee.

Clause 246 enjoins an offender who is liable to pay compensation to effect the payment by certified cheque or money payable into the bank account of the Authority.

Clause 247 enjoins the Committee to submit a report to the Minister within six weeks of referral of a matter to the Committee.

Clause 248 deals with the value of a penalty unit in the Act. For the purpose of the Act one penalty unit is twelve United States dollars or any greater sum in United States dollars that the Minister may by legislative instrument prescribe.

The power to make Regulations is found in *clause 249*. Some of the matters for Regulations are the designation of types of oil tankers, segregated ballast tanks, crude oil washing operations, standard discharge connections and the survey of Ghanaian ships which are not subject to surveys under *clauses 52* and *53*. Others are shipboard oil pollution emergency plan, pump-room bottom protection, double hull and double bottom requirements and fixed or floating production storage and offloading units.

Clause 250 deals generally with the interpretation of words and terms used in the Bill whilst *clause 251* provides guidance on the recovery of fines. Where a person is convicted of an offence and the fine related to the conviction is not paid within forty-eight hours, the fine is a debt owed to the State by the convicted person and the Authority may enter into execution for recovery of the debt.

Clause 252 provides for modification of the existing law, while *clause 253* details the Acts and legal provisions that are repealed, saved as well as the transitional provisions.

HON. DZIFA AKU ATIVOR
Minister responsible for Transport

Date: 19th October 2015.