
Regional Model Marine Pollution Prevention Act

A Template for Pacific Island Countries

A joint project by SPREP, SPC and IMO under the auspices of:
PACPOL - the Pacific Ocean Pollution Prevention Programme
PACPOL Project CL 1. IMO ITCP Project HO3 RAS/97/310

Draft as of December 2003

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2000*

Template Legislation

- ❑ It should be noted that in adapting the model to your national situation, a number of generic terms used in the model will need to be replaced with your country-specific terms.
- ❑ For example, wherever (*Pasifika*) appears, it will need to be changed to the name of your country.
- ❑ Also, while fines and jail terms for offences are suggested in the model, these are intended as indicative guides only and individual countries may wish to amend these to suit their respective situations.
- ❑ To assist this process all generic terms are given in (*brackets and italics*).

MARINE POLLUTION PREVENTION ACT

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**AN ACT
TO PROVIDE FOR THE PREVENTION OF AND RESPONSE TO
MARINE POLLUTION AND THE DUMPING OF WASTES AND OTHER MATTER
AND TO GIVE EFFECT TO
INTERNATIONAL MARINE POLLUTION CONVENTIONS**

PART I - PRELIMINARY

1. Short title, application and commencement

- (1) This Act may be cited as the Marine Pollution Prevention Act (*Year*).
- (2) This Act shall apply to:
- (a) all vessels in (*Pasifikan*) waters;
 - (b) all (*Pasifikan*) vessels;
 - (c) all aircraft in or over (*Pasifikan*) territory;
 - (d) all (*Pasifikan*) aircraft;
 - (e) all other potential sources of marine pollution incidents in (*Pasifikan*) territory.
- (3) This Act shall come into force on such date as (*in accordance with Pasifika's process for the coming into force*).

2. Definitions & interpretation

- (1) In this Act, unless the context otherwise requires:

“abrasive blasting medium” means any substance used to remove paint, rust and other material from metal and timber surfaces using an abrasive blasting technique, including but not restricted to copper slag, garnet, glass and sand;

“Administration” means the national ministry, department, division, authority or agency with responsibility for maritime transport;

“Anti-fouling Convention” means the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001;

“anti-fouling systems” means a coating, painting, surface treatment, surface or device that is used on a ship to control or prevent of attachment of unwanted organisms;

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Deleted: paints, coatings or other treatments applied to the hulls of vessels to prevent or minimise marine organisms attaching to and growing on such hulls;

“Bunker oil” means any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of such oil.

“Bunkers Convention” means the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;

“CLC 92” means the International Convention on Civil Liability for Oil Pollution Damage, 1992;

“Committee” means the National Marine Pollution Committee established under section 16;

“contributing oil” means:

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- (a) any oil carried as cargo by sea and loaded onto or discharged from a vessel in (*Pasifikan*) waters;
- (b) In Part V of this Act , crude oil and fuel oil as defined below:-
 - crude oil* means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation. It also includes crude oils from which certain distillate fractions have been removed (sometimes referred to as “topped crudes”) or to which certain distillate fractions have been added (sometimes referred to as “spiked” or “reconstituted” crudes.);
 - fuel oil* means heavy distillates or residues from crude oil or blends of such materials intended for use as a 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 D 396-69)”, or heavier;

“contributing oil site” means any oil transfer site in (*Pasifika*) or (*Pasifikan*) waters;

“contributing vessel” means a vessel in excess of 100 gross tons, whose principal means of propulsion is mechanical;

“discharge” means in relation to pollutants, harmful substances or effluents containing such pollutants or substances, any release into the sea howsoever caused from a vessel, platform or place on land and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying, but does not include:

- (a) dumping within the meaning of the London Convention; or
- (b) release of pollutants or harmful substances for purposes of legitimate scientific research into pollution abatement or control as permitted by the Administration under section 10; or
- (c) release of pollutants or harmful substances for purposes of combating specific pollution incidents in order to minimise the damage from pollution, as permitted by the Administration under section 10;

"dumping" means :

- (a) any deliberate disposal into the sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea; and
- (b) any deliberate disposal into the sea of vessels, aircraft, platforms or other man-made structures at sea; and
- (c) any storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea; and
- (d) any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal;

but does not include:

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

- (f) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Act; or
 - (g) abandonment in the sea of matter such as cables, pipelines and marine research devices placed for the purpose other than the mere disposal thereof;
- and "to dump" and "dumped" have corresponding meanings;

"Discharge Permit" means permission to discharge for purposes of legitimate scientific research or combating specific pollution incidents granted in advance by the Administration under section 10;

"Dumping Permit" means permission to dump granted in advance by the Administration under section 53;

"FUND Convention 92" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992;

~~"Fund 92" means the international organisation established under FUND Convention 92;~~

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"garbage" includes all kinds of food, domestic and operational waste, including plastics, excluding fresh fish and parts thereof, generated during the normal operation of a vessel and liable to be disposed of continuously or periodically, but does not include oil, noxious liquid substances and other pollutants, or sewage from vessels;

"Government" means the Government of (*Pasifika*);

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

"HNS Convention" means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996;

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~~"HNS Fund" means the Fund established under Chapter III of the HNS Convention;~~

~~"HNS Protocol" means the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (HNS Protocol), which is a Protocol to the OPRC Convention;~~

"hull cleaning" means the cleaning of the hull and other external surfaces of a vessel to remove marine organisms that may be attached to or living on that hull or external surface;

"incident" means any occurrence, or series of occurrences having the same origin, which causes a discharge or creates a grave or imminent threat of causing a discharge;

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"incineration at sea" means the combustion on board a vessel, platform or other man-made structure at sea of wastes or other matter for the purpose of their deliberate disposal by thermal destruction; but does not include the incineration of wastes or other matter on board a vessel, platform or other man-made structure at sea if such wastes or other matter were generated during the normal operation of the vessel, platform or other man-made structure at sea;
and "to incinerate" and "incinerated" have corresponding meanings;

"IMDG Code" means the International Maritime Dangerous Goods Code published by the International Maritime Organization from time to time;

"International Funds" means the "International Oil Pollution Compensation Fund 1992" established under FUND Convention 92 and the Hazardous and Noxious Substances Fund established under the HNS Convention;

"International Maritime Convention" means a convention relating to the prevention of and response to marine pollution, for the compensation of damage resulting from marine pollution and to maritime safety, including those listed in sub-section (2);

"International Maritime Organization" means the organisation set up under the International Maritime Organization Convention, 1958 whose task is to develop a comprehensive body of international maritime conventions, codes and recommendations which could be implemented by all members to the conventions;

"INTERVENTION Convention" means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969) and the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil, 1973;

"Lead Agency" means the national ministry, department, division, authority or agency with responsibility for assuming overall operational command and coordination of the response to a marine pollution incident;

"London Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972), as amended by the Protocol of 1996 relating thereto;

"marine casualty" means a collision, grounding or stranding of a vessel or vessels or other incident of navigation, or other occurrence on board a vessel, or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo;

"marine pollution incident" means the actual or probable discharge of any pollutant or other harmful substance from any vessel, platform or place on land;

"MARPOL 73/78" means the International Convention for the Prevention of Pollution from Ships (1973) as modified by the Protocol of 1978 relating thereto;

"master" means the person in charge of a vessel at any one time;

"Minister" means the Minister of State with responsibility for maritime transport;

"NATPLAN" means National Marine Spill Contingency Plan as referred in section 17;

"non-indigenous harmful aquatic organisms or pathogens" means any species of aquatic microbe, plant or animal whose natural biogeographical range does not include (*Pasifikan*) waters and which, if introduced into (*Pasifikan*) waters, has the potential to create hazards to human health, to harm living resources and marine life, to damage or impair facilities and amenities or to interfere with other legitimate uses of the sea;

"noxious liquid substances" means any substance referred to in Appendix II of Annex II of MARPOL 73/78;

"occupier", in relation to a place on land that has no other occupier, means the owner thereof;

"oil" means :

- (a) petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are subject to the provisions of Annex II of MARPOL 73/78) and, without limiting the generality of the foregoing, includes the substances listed in Appendix I to Annex I of MARPOL 73/78;
- (b) In Part V of this Act, any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such ship;

"oil pipeline" means any pipeline constructed or used to convey oil;

"oil tanker" means a ship constructed or adapted for the carriage of oil in bulk as cargo and includes combination carriers and any chemical tanker as defined in Annex I of MARPOL 73/78, when it is carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard;

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"oil transfer site" means any land, site, building, structure or facility (whether on land or above the seabed) that is used to transfer oil, or at or from which oil is transferred to or from a vessel or offshore installation;

"oily mixture" means a mixture with any oil content;

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

"owner"

- (a) in relation to any vessel means:
 - (i) in the case of a registered vessel, the registered owner/owners;
 - (ii) in the case of an unregistered vessel, the person owning the vessel;
 - (iii) in the case of a vessel owned by a State, the person registered as the operator of the vessel;

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- (iv) any charterer, manager, or operator of the vessel or any other person for the time being responsible for the navigation or management of the vessel;
 - (v) any agent in (*Pasifika*) of the owner, charterer, manager, or operator; and
 - (vi) any other person interested in or in possession of the vessel, including any salvor in possession of the vessel, and any employee or agent of any salvor in possession of the vessel;
- (b) in relation to any platform means:
- (i) the owner or manager or licensee for the time being of the platform or structure, or any agent or employee, or any person in charge of operations connected therewith; and
 - (ii) any person having a right or privilege or license to explore the seabed and subsoil and to exploit the natural resources thereof in connection with which the platform or structure is or has been or is to be used;
- (c) for Part V of this Act, means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However, in the case of a ship owned by a state and operated by a company which in that state is registered as the ship's operator, owner shall mean such company;

"PACPLAN" means the Pacific Islands Regional Marine Spill Contingency Plan as referred to in section 18;

"POLFUND" means the National Marine Pollution Fund established under section 21;

"(*Pasifikan*) aircraft" means an aircraft that is registered, or required to be registered, in (*Pasifika*);

"(*Pasifikan*) vessel" means a vessel owned in (*Pasifika*), or a vessel registered or required to be registered, under the Shipping Act (*or equivalent*), or any other vessel based in (*Pasifika*) and operating under the authority of the Government;

"(*Pasifikan*) waters" means

- (a) the internal waters of (*Pasifika*);
- (b) the territorial sea of (*Pasifika*);
- (c) the contiguous waters of (*Pasifika*);
- (d) the waters of the Exclusive Economic Zone of (*Pasifika*);

(NB: the positioning of the three definitions immediately above will need to be changed to maintain alphabetical order once the country name is inserted in place of Pasifika).

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

"place on land" means any place on dry land, or on any dry, inter-tidal or submerged reef, or any place connected with dry land or a reef;

“platform” means any man-made fixed or floating offshore structure used for any purpose whatsoever;

"pollutant" includes oil and oily mixtures, noxious liquid substances, harmful packaged substances, sewage and garbage as defined by MARPOL 73/78 and any water contaminated by any such substance, and any other substance which added to any waters has the effect of contaminating those waters so as to make them unclean, noxious or impure or detrimental to the health, safety or welfare of any person, or poisonous or harmful to marine life;

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"pollution damage" means:

- (a) loss or damage caused outside a vessel by contamination resulting from the escape or discharge of a pollutant from the vessel, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than losses of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
- (b) in Part V of this Act, loss or damage caused outside a vessel by contamination resulting from the escape or discharge of oil from the vessel, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than losses of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
- (c) the costs of preventative measures and further loss or damage caused by preventive measures;

“preventive measures” mean any reasonable measures taken by any person after a pollution incident has occurred to prevent or minimise pollution damage;

"reception facilities" mean facilities for enabling vessels using a port to discharge or deposit oil, oily mixtures, noxious liquid substances, sewage or garbage from those vessels;

"related interests" include interests directly affected or threatened, including, but not limited to maritime, coastal, port or estuarine activities, fisheries activities, tourist attractions, public health and welfare, and the conservation of living marine resources and of wildlife;

"sea" means all areas of the ocean below highest astronomical tide and includes any estuary, tidal area and lagoon;

"Secretary" means the head of the Administration;

"sewage", in relation to vessels, includes:

- (a) drainage and other wastes from any form of toilets, urinals and toilet scuppers;
- (b) drainage from medical premises, including dispensaries and sick bays, by way of wash basins, wash tubs and scuppers located in such premises;
- (c) drainage from spaces containing living animals; and
- (d) other waste waters when mixed with the drainage mentioned in the foregoing provisions of this definition;

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"ship", in Part V of this Act, means any seagoing vessel and seaborne craft of any type whatsoever;

"ship repair facility" means any place on land, in the inter-tidal zone and in (*Pasifika*) waters where vessels are repaired and maintained, including cleaning, scraping and painting;

"SPREP" means the South Pacific Regional Environment Programme;

"SPREP Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1990 and related protocols;

"SPREP Dumping Protocol" means the Protocol on the Prevention of Pollution of the South Pacific by Dumping (a protocol of the SPREP Convention);

"SPREP Pollution Emergencies Protocol" means the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region (a protocol of the SPREP Convention);

"synthetic fishing nets" includes synthetic material used in the repair of such nets;

"transfer" in relation to oil or any pollutant means the conveyance in bulk from the vessel to a place on land or vice versa, or from one vessel to another, or the internal transfer from tank to tank within the vessel;

"vessel" means a water craft of any type whatsoever operating in the marine environment and includes submersibles, displacement and non-displacement craft, hydrofoils, air-cushioned vehicles and fixed or floating platforms without regard to the method of or lack of propulsion;

"wastes or other matter" means material and substances of any kind, form or description.

(2) The following International Maritime Conventions, including any Protocols, Annexes, Appendices and Addenda, are incorporated into and have the force of law in (*Pasifika*):

- (a) Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1990 (SPREP Convention) and its Protocol for the Prevention of Pollution of the South Pacific by Dumping (SPREP Dumping Protocol) and Protocol concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region (SPREP Pollution Emergencies Protocol);
- (b) Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972) as amended by the Protocol of 1996 relating thereto (London Convention);
- (c) International Convention for the Prevention of Pollution from Ships (1973) as amended by the Protocol of 1978 relating thereto (MARPOL 73/78);
- (d) International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 92);

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- (e) International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention);
- (f) International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (OPRC Convention);
- (g) International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (FUND 92);
- (h) International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969) and the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil, 1973 (INTERVENTION Convention);
- (i) Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (HNS Protocol);
- (j) International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention);
- (k) International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (Anti-fouling Convention);

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PART II - MARINE POLLUTION PREVENTION

3. Design of vessels and pollution prevention equipment

All vessels to which MARPOL 73/78 applies shall comply with the design and pollution prevention equipment provisions contained therein, except that existing vessels which do not comply, shall be allowed to continue to operate under such conditions and for such duration as the (*Minister/Secretary*) may determine.

4. Operation of vessels

All vessels to which MARPOL 73/78 applies shall be operated in compliance with the provisions contained therein, except that existing vessels which do not comply with MARPOL 73/78 shall be allowed to continue to operate under such conditions and for such duration as the (*Minister/Secretary*) may determine.

5. Discharge of pollutants and harmful substances

- (1) No pollutant or harmful substance, including but not limited to oil, plastics, synthetic ropes and synthetic fishing nets may be discharged from a vessel, platform or place on land into (*Pasifikan*) waters or from a (*Pasifikan*) vessel into any waters.
- (2) If any pollutant or harmful substance is discharged into (*Pasifikan*) waters
 - (a) from any vessel, the owner and master; or
 - (b) from any place on land, the occupier; or
 - (c) from any apparatus used for transferring a pollutant to or from any vessel, the person in charge of the apparatus; or
 - (d) from any platform, the owner and master or person in charge; or

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(e) as a result of operations for the exploration of the seabed or subsoil or the exploitation of the natural resources thereof, the owner and the person conducting the operations, or the person in charge of the operations; commits an offence and shall be liable upon conviction to a fine not exceeding (\$500,000) or (10) years imprisonment, and, in addition shall, subject to the provisions of this Act concerning limitation of liability, be liable to pay for the total costs of any clean up operation necessary to restore the environment to its original condition.

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- (3) If any pollutant or harmful substance is discharged into (*Pasifikan*) waters
- (a) from any vessel, the owner and master; or
 - (b) from any place on land, the occupier; or
 - (c) from any apparatus used for transferring a pollutant to or from any vessel, the person in charge of the apparatus; or
 - (d) from any platform, the owner and master or person in charge; or
 - (e) as a result of operations for the exploration of the seabed or subsoil or the exploitation of the natural resources thereof, the owner and the person conducting the operations, or the person in charge of the operations;
- shall, subject to the provisions of this Act concerning limitation of liability, be liable to pay for the total costs of any clean up operation necessary to restore the environment to its original condition.
- (4) This section shall not apply to a discharge
- (a) necessary for the purpose of securing the safety of a vessel or saving life at sea, providing that the discharge was necessary and reasonable in the circumstances; or
 - (b) resulting from damage to a vessel or its equipment:
 - (i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge; and
 - (ii) except if the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or
 - (c) for purposes of
 - (i) legitimate scientific research into pollution abatement or control; or
 - (ii) combating specific pollution incidents in order to minimise the damage from pollution;as permitted by the Administration in accordance with section 10.
- (5) This section shall not apply to the discharge into the sea of oil, oily mixtures, noxious liquid substances, sewage and garbage as allowed under MARPOL 73/78, including
- (a) for an oil tanker if;
 - (i) the oil tanker is not in a special area;
 - (ii) the oil tanker is more than 50 nautical miles from the nearest land;
 - (iii) the oil tanker is proceeding *en route*;
 - (iv) the instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile;
 - (v) the total quantity of oil discharged into the sea does not exceed for existing oil tankers 1/15,000 of the total quantity of the particular cargo of which the residue formed a part, and for new tankers 1/30,000 of the total quantity of the particular cargo of which the residue formed a part; and
 - (vi) the oil tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by Regulation 15 of Annex I of MARPOL 73/78 (Retention on board);

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- (b) for a vessel of 400 tons gross tonnage and above other than an oil tanker and from machinery space bilges, excluding cargo pump-room bilges of an oil tanker unless mixed with oil cargo residue;
- (i) the vessel is not within a special area;
 - (ii) the ship is proceeding *en route*;
 - (iii) the oil content of the effluent without dilution does not exceed 15 parts per million; and
 - (vi) the ship has in operation equipment as required by Regulation 16 of Annex I of MARPOL 73/78 (oil discharge monitoring and control system and oil filtering equipment);
- (c) in respect of garbage the discharge of which is allowed from all vessels, but shall be made as far as practicable from the nearest land, but in any case is prohibited if the distance from the nearest land is less than
- (i) 25 nautical miles for dunnage, lining and packing materials which will float;
 - (ii) 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse;
- except for all plastics, the discharge of which is prohibited from all vessels everywhere.

6. Discharge of ballast water

- (1) No ballast water containing non-indigenous harmful aquatic organisms and/or pathogens shall be discharged from a vessel into (*Pasifikan*) waters.
- (2) If any ballast water containing non-indigenous harmful aquatic organisms and/or pathogens is discharged from any vessel into (*Pasifikan*) waters, the owner and master commit an offence and shall be liable upon conviction to a fine not exceeding (\$250,000).
- (3) The Master of a vessel that discharges ballast water in (*Pasifikan*) waters shall comply with any voluntary or mandatory ballast water management requirements issued by the International Maritime Organization in force at the time of the discharge.
- (4) The Master of a vessel that intends to discharge ballast water in (*Pasifikan*) waters shall, prior to such discharge, complete and submit to the (*Minister/Secretary*) a Ballast Water Reporting Form in the form approved for that purpose.
- (5) It shall be a defence to show that all reasonable measures to comply with any voluntary or mandatory ballast water management requirements issued by the International Maritime Organization in force at the time were taken to ensure that no ballast water containing non-indigenous harmful aquatic organisms or pathogens were discharged from a vessel into (*Pasifikan*) waters.

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7. Hull scraping and cleaning

- (1) The scraping and cleaning of the hulls and other external surfaces of vessels in a manner that may result in the introduction of non-indigenous harmful aquatic organisms or pathogens into (*Pasifikan*) waters is prohibited.
- (2) Any person who breaches this section commits an offence and shall be liable upon conviction to a fine not exceeding (~~\$250,000~~).

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8. Anti-fouling systems

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- (1) The Anti-fouling Convention shall apply to all ships of 24 metres or more in length.
- (2) Ships of 400 gross tonnage and above engaged in international voyages shall be required to undergo:
 - (a) an initial survey and be certified before the ship is put into service or before the International Anti-fouling System Certificate is issued for the first time;
and
 - (b) a survey and be certified when the anti-fouling systems are changed or replaced.
- (3) Ships of 24 metres or more in length but less than 400 gross tonnage engaged in international voyages shall carry a Declaration on Anti-fouling Systems signed by the owner or owner's authorised agent. The Declaration shall be accompanied by appropriate documentation such as a paint receipt or contractor invoice.
- (4) The use and application of harmful anti-fouling systems containing, but not limited to, organotin compounds on vessels less than 24 metres in length in (*Pasifikan*) waters is prohibited.
- (5) Any owner or master who contravenes any provision of the Anti-fouling Convention commits an offence and shall be liable, upon conviction, to a fine not exceeding (\$100,000).
- (6) The owner or master of any vessel less than 24 metres in length shall not use any harmful anti-fouling system, containing, but not limited to, organotin compounds in (*Pasifikan*) waters and any person that applies harmful anti-fouling systems to a vessel in (*Pasifika*) commits an offence and shall be liable upon conviction to a fine not exceeding (\$100,000).

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9. Management of waste from ship repair facilities

- (1) The discharge, disposal and escape of hull scrapings, paints and paint residues, abrasive blasting mediums and any other pollutant or harmful substance and any effluent containing such pollutants or harmful substances into (*Pasifikan*) waters from ship repair facilities is prohibited.
- (2) All ship repair facilities shall have in place systems for the effective containment and recovery of all hull scrapings, paints and paint residues, abrasive blasting mediums and any other pollutant or harmful substance and any effluent containing such pollutants or harmful substances for proper re-use, recycling, treatment and/or disposal in Government approved waste management facilities on-shore.

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- (3) The owner or operator of a ship repair facility who breaches this section commits an offence and shall be liable upon conviction to a fine not exceeding (\$250,000).

10. Discharge Permits

- (1) A person wishing to discharge a pollutant or harmful substance for the purposes outlined in subsection 5 (4) (c), shall apply in writing to the (*Minister/Secretary*) for a Discharge Permit. In applying for a Discharge Permit, the person shall provide the (*Minister/Secretary*) with the following information in writing:
- the identity and full contact details of the person responsible for the proposed discharge;
 - the reasons for the proposed discharge;
 - the likely benefits of the proposed discharge;
 - the location of the proposed discharge;
 - the nature of the pollutant or harmful substance proposed to be discharged (including their correct technical names, IMDG Code Classification and UN number, if applicable), and its chemical composition and physical and chemical properties and biological toxicity;
 - the quantity or volume of pollutant or harmful substance proposed to be discharged;
 - the proposed method of discharge;
 - the details of the measures to be used to control, mitigate and monitor the environmental impacts of the discharge;
 - documentary evidence of financial ability to meet the total cost of any clean up operation necessary to restore the environment to its original condition.
- (2) In assessing an application for a Discharge Permit, the (*Minister/Secretary*) shall take the following into consideration:
- the protection of human life, health and safety;
 - the environmental impacts that are likely to occur from the proposed discharge versus the environmental impacts that are likely to occur if the proposed discharge is not permitted;
 - the views of the National Marine Pollution Committee referred to in section 16, the local government and the local community;
- (3) In issuing a Discharge Permit the (*Minister/Secretary*) may impose whatever condition he/she sees fit, including a requirement for the permit holder to pay the total costs of any clean up operation necessary to restore the environment to its original condition.
- (4) The holder of a Discharge Permit who fails to comply with the conditions therein commits an offence and shall be liable upon conviction to a fine not exceeding (\$100,000) or to a term of imprisonment not exceeding (*1 year*).

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11. Waste reception facilities in ports

(1) ~~Regulations may be prescribed for the provision of waste reception facilities at (Pasifikan) ports to enable vessels to discharge waste oil or oily residues, hazardous and noxious substances, sewage, or deposit garbage, from those vessels.~~

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(2) Such facilities need not be provided where reception of a vessel's waste may cause unacceptable environmental impacts in (Pasifikan) territory.

(3) Any waste reception facilities provided shall be adequate to meet the needs of vessels without causing undue delay.

~~(4) The full or partial cost of providing and operating these waste reception facilities may be recovered by user fees.~~

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(5) ~~No water containing pollutants that has not been first processed by the ship's oily water separator, or other effective process from separating the pollutant from the water to be discharged, shall be discharged into any waste reception facilities.~~

Deleted: Nothing in this section shall be construed as requiring the (Minister/Secretary) to allow water which contains pollutants that have not been subjected to an effective process for separating the pollutant from the water to be discharged into any waste reception facilities provided by or arranged by the (Minister/Secretary)

12. Duty to report discharges

(1) If any pollutant or harmful substance is discharged into (Pasifikan) waters from a vessel, platform or a place on land, the owner, master or person in charge of the vessel or platform, or the occupier of the place on land shall immediately and by the quickest available means report the occurrence to the (Minister/Secretary).

(2) The report required to be made under subsection (1) shall contain the following information:

- (a) the time of the discharge;
- (b) position of the discharge, including latitude and longitude, if possible;
- (c) the event to which the discharge is directly attributable;
- (d) the precise source of the discharge;
- (e) the weather and sea conditions at the time of the discharge and at the time when the report was made;
- (f) where oil has been discharged, the quantity and description of each type of oil that was discharged;
- (g) the quantity and description of each type of oil remaining on board;
- (h) where a pollutant other than oil has been discharged, the quantity and description of each type of pollutant discharged (including their correct technical names, IMDG Code Classification and UN number, if applicable);
- (i) the quantity and description of each type of pollutant other than oil remaining on board;
- (j) where garbage or sewage has been discharged, the quantity, description and concentration that was discharged;
- (k) the types, quantity and condition of the rest of the cargo carried;
- (l) the existence of any slick and the direction and speed of its movement; and
- (m) the measures that have been taken :
 - (i) to stop or reduce the discharge;
 - (ii) to contain the pollutant and prevent it's spread;
 - (iii) to remove the pollutant from the sea or to disperse it; and
 - (iv) to minimise damage or the possibility of damage resulting from the discharge;
- (n) the identity and full contact details of the person making the report.

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- (3) If any vessel becomes stranded, wrecked or is abandoned in (*Pasifikan*) waters or if a (*Pasifikan*) vessel becomes stranded, wrecked or is abandoned in any waters, then the owner or master or person in charge shall immediately and by the quickest available means report the occurrence to the (*Minister/Secretary*), giving
- (a) full details of the vessel and damage sustained;
 - (b) the types, quantity and condition of the cargo carried;
 - (c) a complete list of all pollutants carried, including the types, quantity and condition;
 - (d) if a discharge has occurred, the details required in subsection (3) above;
 - (e) the identity and full contact details of the person making the report.
- (4) Every person, who:
- (a) fails to reasonably comply with any provision of this Section; or
 - (b) makes a report containing any information that to his knowledge is false or misleading;
- commits an offence and is liable upon conviction to a fine not exceeding (~~\$250,000~~).

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13. Records

- (1) The master of every (*Pasifikan*) oil tanker and every oil tanker in (*Pasifikan*) waters of 150 tons gross tonnage and above and every (*Pasifikan*) vessel and every vessel in (*Pasifikan*) waters of 400 tons gross tonnage and above other than an oil tanker shall carry and maintain an Oil Record Book Part I (Machinery Space Operations) and enter a record whenever any of the following machinery space operations are carried out:
- (a) ballasting or cleaning of oil fuel tanks;
 - (b) discharge of dirty ballast or cleaning water from tanks referred to in subparagraph (a) above;
 - (c) disposal of oily residues (sludge);
 - (d) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces;
- (2) The master of every (*Pasifikan*) oil tanker and every oil tanker in (*Pasifikan*) waters of 150 tons gross tonnage and above shall also carry and maintain an Oil Record Book Part II (Cargo/Ballast Operations) and shall enter a record whenever any of the following cargo/ballast operations are carried out:
- (a) loading of oil cargo;
 - (b) internal transfer of oil cargo during voyage;
 - (c) unloading of oil cargo;
 - (d) ballasting of cargo tanks and dedicated clean ballast tanks;
 - (e) cleaning of cargo tanks including crude oil washing;
 - (f) discharge of ballast except from segregated ballast tanks;
 - (g) discharge of water from slop tanks;
 - (h) closing of all applicable valves or similar devices after slop tank discharge operations;
 - (i) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations;
 - (k) disposal of residues.
- (3) The Oil Record Book(s) required under sub-sections (1) and (2); whether as a part of the vessel's official log-book or otherwise, shall be in the Form(s) specified in Regulation 20 and Appendix III of Annex I of MARPOL 73/78.
- (4) The person in charge of a platform when such platform is in (*Pasifikan*) waters, shall comply with the provisions of subsections (1) and (2), as far as applicable and with the necessary modifications.

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(5) The master of a (*Pasifikan*) vessel or a vessel in (*Pasifikan*) waters to which Annex II of MARPOL 73/78 applies, shall carry a Record Book, and shall record the loading or unloading, the transfer and any other operations in respect of pollutants specified in Annex II of MARPOL 73/78, any discharge or escape of such pollutants and the circumstances and reasons relating thereto.

(6) Every person who fails to comply with any requirement imposed by this section, commits an offence and is liable upon conviction to a fine not exceeding (~~\$50,000~~).

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(7) Every person who makes an entry in any records to be kept in accordance with this section which to his knowledge is false or misleading commits an offence, and is liable upon conviction to a fine not exceeding (~~\$50,000~~), or to a period of imprisonment not exceeding (*1 year*).

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14. Powers of inspection

(1) The (*Minister/Secretary*) may appoint by (*country specific process*) any properly trained and qualified person as an inspector to report to him/her

- (a) as to whether the provisions of this Act have been complied with;
- (b) on what measures have been taken to prevent the discharge of pollutants, other than in accordance with the provisions of this Act;
- (c) as to whether reception facilities provided in ports are adequate to meet the needs of the vessels using them without causing undue delay.

(2) Every inspector shall have the power to

- (a) inspect any vessel, platform, place on land, and any apparatus used for the storage, transfer or processing of pollutants, garbage or sewage, as the case may be; and
- (b) test any equipment with which the vessel or platform is required to be fitted in accordance with any International Maritime Convention and any requirement of this Act; and
- (c) require the production of any records required to be kept and shall have the power to copy records and require the person by whom the records are to be kept to certify the copy as a true copy; and
- (d) board the vessel to ascertain the circumstances relating to an alleged discharge of a pollutant from the vessel into (*Pasifikan*) waters or from a (*Pasifikan*) vessel into any waters; and
- (e) board the vessel and take, or require to be taken, soundings of tanks, spaces, and bilges, and any sample or samples of any pollutant from the vessel for analysis.

(3) Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate. In that case, of if the ship does not carry a valid certificate, the (*Minister/Secretary*) shall take such steps as will ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment. The (*Minister/Secretary*) may, however, grant such a ship permission to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

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(4) If the (*Minister/Secretary*) denies a foreign ship entry to the ports or offshore terminals, or takes any action against such a ship for the reasons that the ship does not comply with the provisions of this Act, the (*Minister/Secretary*) shall immediately

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inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly, or if this is not possible, the Maritime Administration of the ship concerned.

(5) A person exercising any powers conferred by this section shall not unnecessarily detain or delay the vessel from proceeding on any voyage.

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(6) Every person who:

- (a) fails to reasonably comply with any requirement of this section; or
 - (b) obstructs a person acting in the exercise of any power conferred by this section;
- commits an offence and is liable upon conviction to a fine not exceeding (\$50,000).

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PART III - MARINE POLLUTION RESPONSE

15. General Application of this Part

This part shall be applied with regard to the general principles and provisions of the OPRC Convention and its HNS Protocol and the SPREP Pollution Emergencies Protocol.

16. National Marine Pollution Committee

(1) A National Marine Pollution Committee (the Committee) shall be formed to give advice to the (*Minister/Secretary*) on the following matters:

- (a) the development and maintenance of the National Marine Spill Contingency Plan (NATPLAN) required under section 17 and related matters;
- (b) the response to specific marine pollution incidents;
- (c) the provision and operation of ships' waste reception facilities in (*Pasifika*) ports, including the need for such facilities;
- (d) the fixing of the Marine Pollution Levy referred to in section 25 and administration of the National Marine Pollution Fund established under section 21;
- (e) participation of (*Pasifika*) in any bilateral and/or multilateral/regional marine spill contingency plan(s) and related arrangements in place at the time;
- (f) any other matters related to marine pollution as required by the (*Minister/Secretary*).

(2) The (*Minister/Secretary*) shall appoint members of the Committee, including a Chairperson, which shall comprise, as a minimum:

- (a) the head of the ministry/department responsible for finance;
- (b) the head of the ministry/department responsible for environmental protection;
- (c) the head of the ministry/department responsible fisheries/marine resources;
- (d) the head of the ministry/department responsible for disaster management; or their designated alternates; and
- (e) representatives from the following:

- (i) the shipping industry;
- (ii) the oil industry
- (iii) the port administration;
- (iv) the fishing industry; and

(v) other sectors as deemed necessary by the (*Minister/Secretary*).

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(3) The Committee may, subject to any written directions of the (*Minister/Secretary*), regulate its procedure as it thinks fit.

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- (4) The Chairperson shall submit an Annual Report to the (*Minister/Secretary*) outlining the activities of the Committee and summarising the advice given to the (*Minister*) during the previous calendar year, which report shall be tabled by the (*Minister*) in Parliament.

17. Marine Spill Contingency Plans

- (1) The (*Minister/Secretary*), with advice from the Committee, shall ensure that a National Marine Spill Contingency Plan (NATPLAN) is developed, implemented, frequently exercised and maintained. Wherever practicable, the NATPLAN shall be consistent with regional guidelines and shall designate the Administration as the Lead Agency.
- (2) All owners and operators of ports and oil and chemical handling and storage facilities shall develop, implement, frequently exercise and maintain site-specific marine spill prevention and contingency plans for their facilities, consistent with the NATPLAN.
- (3) All owners or operators of vessels to which MARPOL 73/78 applies shall develop, implement, frequently exercise and maintain shipboard marine pollution emergency plans consistent with the requirements MARPOL 73/78.
- (4) The plans required to be developed under this section shall be submitted to the (*Minister/Secretary*) for approval.

18. Regional Cooperation

- (1) The Committee shall advise the (*Minister/Secretary*) regarding co-operation with other Pacific Island Countries and Territories in matters relating to the response to marine pollution incidents. Such co-operation should be undertaken in accordance with
- (a) any bilateral and/or multilateral/regional marine spill contingency plan(s) and related arrangements in place at the time;
 - (b) the SPREP Pollution Emergencies Protocol;
 - (c) the OPRC Convention and Protocol.
- (2) Should (*Pasifika*) require external assistance in response to a marine pollution incident, such assistance may be requested in accordance with the procedures contained in any bilateral and/or multilateral/regional marine spill contingency plan(s) and related arrangements in place at the time.
- (3) Should other Pacific Island Countries and Territories request assistance from (*Pasifika*) in response to a marine pollution incident, such requests may be considered in accordance with the procedures contained any bilateral and/or multilateral/regional marine spill contingency plan(s) and related arrangements in place at the time.

19. Appointment of On Scene Commander

- (1) The (*Minister/Secretary*) shall from time to time appoint On Scene Commander(s) and Deputy On Scene Commander(s). The latter shall be deemed to be the On Scene Commander if the office of On Scene Commander is vacant or the incumbent is absent.
- (2) The On Scene Commander shall:
- (a) command, manage and co-ordinate all operations; and
 - (b) control and direct the use of all resources;

in response to any marine pollution incident in (*Pasifikan*) waters or which threatens (*Pasifikan*) waters or territory.

- (3) During a marine pollution incident, the On Scene Commander is in command of all national assets and resources that are deemed necessary to deal with the incident and has the authority to spend and commit such funds as are reasonable in the circumstances up to the amount contained in the National Marine Pollution Fund established under section 21.
- (4) Any appointments made under this section shall be made by name and on such terms and conditions as the (*Minister/Secretary*) thinks appropriate.

20. Marine pollution response equipment

- (1) The (*Minister/Secretary*) shall arrange for the establishment and maintenance of a national marine pollution response equipment inventory.
- (2) The national marine pollution response equipment inventory shall be a joint government/industry arrangement, with industry comprising the owners and operators of all ports and oil and chemical handling and storage facilities within (*Pasifika*) and all parties contributing and having access to the equipment. Industry shall provide, maintain and operate the equipment necessary to respond to marine pollution incidents from its facilities.
- (3) In determining equipment needs, the government and industry shall co-operate to ensure compatibility and inter-operability, and that the inventory is the most appropriate for the level of marine pollution risk and local conditions.
- (4) The (*Minister/Secretary*) may require owners or operators of vessels and platforms to carry on board and maintain marine pollution response equipment for, as far as practicable, the containment, recovery or dispersal of any pollutant that may be discharged by the vessel or platform into (*Pasifikan*) waters. The type and quantity of such equipment shall be sufficient to allow an initial response to the pollution incident, as determined by the (*Minister/Secretary*) in consultation with the owner or operator, taking into consideration limitations of the crew and the practicalities of operations at sea. The type and quantity of such equipment shall be specified in the shipboard marine pollution emergency plan required under section 17(3).
- (5) Every person who fails to reasonably comply with any requirement of this section commits an offence and is liable upon conviction to a fine not exceeding (\$100,000).

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21. National Marine Pollution Fund (POLFUND)

- (1) There is established a fund to be known as the National Marine Pollution Fund (POLFUND) to finance the implementation of the National Marine Spill Contingency Plan (NATPLAN).
- (2) The POLFUND shall be governed and administered by a Board of Trustees, as specified in section 22.
- (3) The marine pollution levies payable under sections 25 and 27 and any other money payable to the POLFUND shall be paid into the fund.

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(4) All money payable to the POLFUND shall be paid to an interest-bearing account established for that purpose by the Trustees.

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(5) All income of the POLFUND shall form part of the fund.

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(6) Monies may be expended from the POLFUND in accordance with section 23.

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(7) The POLFUND shall be audited annually by the Auditor General and the audit report and financial statements of the POLFUND shall be tabled by the (Minister) in the Parliament every financial year.

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22. POLFUND Trustees

(1) The (Minister/Secretary) shall appoint from the membership of the Committee, a Board of Trustees to govern and administer the POLFUND.

(2) The Board of Trustees shall comprise as a minimum, a representative of the (Minister/Secretary), the oil industry and the shipping industry.

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(3) The duties and responsibilities of the Board of Trustees shall include the proper financial management of the POLFUND, the development of appropriate strategies for growth of the POLFUND, and the investment of monies from the POLFUND.

23. Application of POLFUND monies

Subject to the provisions of this Act, the (Minister/Secretary) shall apply the POLFUND for the following purposes only:

- (a) to purchase plant, equipment, or any other thing to make preparations for, or to implement, or assist in implementing, any responses to marine pollution incidents;
- (b) to meet the reasonable costs of national marine spill response training and exercises;
- (c) to meet the reasonable costs of the Administration in controlling and cleaning up any marine pollution incident if, and to the extent that, those costs have not been recovered from the person who caused the incident;

24. Approval of expenditure from the POLFUND

(1) The On Scene Commander shall prepare an annual budget of income and expenditure for the POLFUND in consultation with the Committee to be approved by the Board of Trustees.

(2) No expenditure shall be made from the POLFUND unless:

- (a) it is provided for in the approved budget; and
 - (b) it has been approved in writing by the Board of Trustees;
- except that in the event of a marine pollution incident, the On Scene Commander has the authority to spend and commit such funds as are reasonable in the circumstances up to the amount contained in the POLFUND for the initial containment and recovery of the pollutant. Expenditure of funds for subsequent clean-up operations must be approved in writing by resolution of the Board of Trustees.

(3) For marine pollution incidents from industry facilities the costs of containment, recovery and clean-up of the pollutant and any subsequent restoration of the environment shall be met directly by the owner or operator of the facility without recourse to the POLFUND.

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25. Marine Pollution Levies

- (1) Subject to subsections (2) and (3), the *(Minister/Secretary)* may, by *(county specific method/procedure)* impose levies for the purposes of funding the POLFUND on the following persons:

- (a) the owners of contributing vessels;
- (b) the owners of contributing oil sites.

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- (2) The *(Minister/Secretary)* shall consult with the Committee on the imposition and the rate of the marine pollution levy

- (3) No levies shall be imposed under subsection (1) unless the planned expenditures from the POLFUND is reasonable and the levies recommended will enable expenditures to be met without reducing the level of reserves referred to in section 26.

- (4) ~~The *(Minister/Secretary)* shall require returns to be made by the persons by whom any levy is payable.~~

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26. Establishment and maintenance of maximum POLFUND level

- (1) The Minister shall, in consultation with the Committee determine the maximum POLFUND level and determine mechanisms to maintain the desired financial reserve.

- (2) When the maximum amount of the POLFUND has been collected, the levy may be suspended.

- (3) If the trust fund is depleted by expenditures made under section 23, the Minister may, in consultation with the Committee, determine the date on which the levy will be reinstated.

- (4) The Minister shall, in consultation with the Committee, review the maximum POLFUND level and reset an appropriate level as required.

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27. Rates and basis of marine pollution levies

- (1) The *(Minister/Secretary)* may fix different rates of levy in respect of different classes of contributing vessels.

- (2) Any levy on contributing vessels may be calculated as follows:

- (a) a flat annual rate, or
- (b) a specified rate in respect of each entry of a contributing vessel into a port in *(Pasifika)*

as prescribed in Regulations.

- (3) A levy on contributing oil sites will be a flat rate per ton of oil transferred.

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28. Incurring of levies

- (1) Where any marine pollution levy is imposed in respect of a contributing ship, the liability to pay that levy shall arise:

- (a) where the levy is assessed on an annual basis, on the first entry of that vessel into a port in *(Pasifika)* during the period for which the levy is assessed; and
- (b) in any other case, on the entry of that vessel into a port in *(Pasifika)*.

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(2) Where any levy is imposed in respect of a contributing oil site, the liability to pay that levy shall arise on a quarterly basis. Deleted: or contributing oil

(3) The (Minister/Secretary) may:
(a) require levies to be paid in advance or otherwise;
(b) give notice of the dates for the payment of levies; Deleted: prescribe
(c) give notice of the periods in respect of which the levies shall be payable; Deleted: prescribe
(d) provide for the refund of the whole or any part of a levy paid in advance or otherwise;

(4) The owners of contributing vessels and contributing oil sites, as the case may be, shall be jointly and severally liable for the payment of the levies.

(5) A levy shall not apply to a contributing vessel in respect of its entry into a port
(a) solely for the purpose of saving or preventing danger to human life, or obtaining medical treatment for any person; or
(b) solely because of weather conditions or any other circumstances that the owner or master of the vessel could not have foreseen or prevented.

29. Payment of levies

(1) Marine pollution levies shall be paid to the (Minister/Secretary) or to such other person approved by the (Minister/Secretary) for the purpose. Deleted: ¶
(a) where the levy is assessed on an annual basis, to the (Minister/Secretary);
(b) in any other case,

(2) All levies so received shall be paid into the POLFUND.

(3) An official receipt shall be given to any person paying any marine pollution levy.

30. Vessels not entitled to certificate of clearance until levies paid Deleted:

(1) Where any levy is payable in respect of a contributing vessel, the vessel shall not be entitled to leave port until payment is made.

(2) Any person in respect of whom any decision is taken under this section may appeal against the decision in a Court of competent jurisdiction in (Pasifika). Deleted:

31. Offences

(1) Every person who contravenes or fails to comply with any obligation or requirement imposed on him or her by this section commits an offence.

(2) Every person who commits an offence under this section is liable upon conviction:
(a) in the case of an individual, to a fine not exceeding (\$50,000); Deleted: 10
(b) in any other case, to a fine not exceeding (\$250,000).

32. Recovery of levies

If any person who is liable to pay a levy fails to do so, the amount of the levy may be recovered from that person as a debt.

PART IV - MARINE CASUALTIES

33. General application of this Part

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This Part shall be applied consistent with the principles and provisions of the INTERVENTION Convention.

34. Powers, in relation to marine casualties

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- (1) Without prejudice to any rights or powers of the Government exercisable under international law, the powers conferred by this Part shall only be exercised and the measures shall only be taken as a result of
 - (a) a marine casualty in (*Pasifikan*) waters or on the High Seas; or
 - (b) a pollution incident occurring onboard a vessel or a platform, where it appears to the (*Minister/Secretary*) necessary to prevent, reduce or eliminate grave and imminent danger from pollution, or threat of pollution, from any pollutant in, or the risk of any such pollution to (*Pasifikan*) waters or to the coast of (*Pasifika*) or to related interests, following upon a marine casualty or acts related to such a casualty.
- (2) Where it appears to the (*Minister/Secretary*) that as a result of such casualty or incident referred to in subsection (1) a vessel or platform constitutes or is likely to constitute a serious risk of pollution in, or to, (*Pasifikan*) waters, or to the coast of (*Pasifika*), or to related interests, then, for prevention, reduction or elimination of pollution, the (*Minister/Secretary*) may
 - (a) issue any instructions to the master, owner or agent of the vessel, or to any person in charge of any salvage operation in respect of the vessel and an employee or agent of that person, or to the owner, master or any person in charge of conducting operations on any platform, requiring any specified action to be taken or that no specified action be taken with respect to the vessel or its cargo, or to the platform or operations thereon; or
 - (b) take any measures whatsoever with respect to the vessel or its cargo or to the platform or operations thereon whether or not he has issued instructions under paragraph (a).
- (3) In determining what measures should be taken under subsection (2), the (*Minister/Secretary*) shall ensure they are proportionate to the damage, actual or threatened, to (*Pasifikan*) waters or the coast of (*Pasifika*) or its related interests; and in considering whether the measures are proportionate to the damage, the (*Minister/Secretary*) shall take into account:
 - (a) the extent and probability of imminent damage if those measures are not taken; and
 - (b) the likelihood of those measures being effective; and
 - (c) the extent of the damage which may be caused by such measures.
- (4) The measures the (*Minister/Secretary*) may direct to be taken or may take him/herself under paragraph (b) of subsection (2) may include:
 - (a) the removal to another place of the vessel or its cargo;
 - (b) the removal of cargo from the vessel;
 - (c) the salvage of the vessel or its cargo, or both;
 - (d) the sinking or destruction of the vessel or the destruction of the cargo, or both;
 - (e) the taking over of control of the vessel.
- (5) In order to carry out any of the measures referred to in subsection (2), the (*Minister/Secretary*) may, after consulting with the owners of the vessel to whose master the instructions are to be given;

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- (a) instruct the master of any (*Pasifikan*) vessel, or the master of any other vessel within (*Pasifikan*) waters, to render assistance to any vessel that is or is likely to be a marine casualty; and
- (b) instruct the master of any (*Pasifikan*) vessel to take on board any equipment, to sail to any place, to render assistance to any vessel assisting a marine casualty or to assist in any operations for the cleaning up, removal, or dispersal of any oil or pollutant, and to obey the instructions of any person authorised by the (*Minister/Secretary*) to exercise control over or responsibility for a marine casualty.

(4) The (*Minister/Secretary*) shall notify any person mentioned in paragraph (a) of subsection (2), of any measures that the (*Minister/Secretary*) proposes to take under paragraph (b) of that subsection;
 PROVIDED THAT the (*Minister/Secretary*) may dispense with such notice where in his opinion the urgency of the situation is such that the measures must be taken immediately.

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- (7) The powers of the (*Minister/Secretary*) to issue instructions under paragraph (a) of subsection (2) or to take measures under paragraph (b) of that subsection, shall be exercisable by any person duly authorised in writing by the (*Minister/Secretary*).
- (8) Before taking any measures referred to in subsection (2), the (*Minister/Secretary*) shall consult with any other States affected by the marine casualty, and in particular the Flag State(s).
- (9) The (*Minister/Secretary*) shall notify without delay the proposed measures to be taken to any persons physical or corporate known to have interests which can reasonably be expected to be affected by those measures.

35. Right to compensation

- (1) Where any action taken by any person in accordance with instructions pursuant to paragraph (a) of section 34 (2), or any measure taken by the (*Minister/Secretary*) under paragraph (b) of section 34 (2):
 - (a) was in excess of that reasonably necessary to prevent, eliminate or reduce pollution or the risk of pollution; or
 - (b) was such that the good of the action or measure taken did or was likely to do was disproportionately less than the expense incurred or the loss or the damage suffered as a result of that action or measure;
 then, a person who has incurred expense or loss or damage as a result of taking that action or measure may recover compensation from the Government.
- (2) Where a claim is brought against the Government for compensation under subsection (1), the Court, in determining whether paragraph (a) or (b) of that subsection apply, shall take into account:
 - (a) the extent and probability of imminent pollution damage if the measures had not been taken; and
 - (b) the likelihood of the measures taken being effective; and
 - (c) the extent of the damage which has been caused by the measures taken.
- (3) Where any measures have been taken pursuant to section 34 on the high seas and there is a dispute between the Government and the owner of the vessel or Government of the State where the vessel is registered or the Government of the State having any related interests in respect of the following :

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- (a) whether such measures were necessary to prevent, reduce or eliminate grave and imminent danger to *(Pasifikan)* waters or the coast of *(Pasifika)* or related interests from pollution or the threat of pollution by pollutants; or
- (b) whether the measures taken were in excess of that reasonably necessary to prevent, eliminate or reduce pollution or the risk of pollution; or
- (c) whether compensation should be paid in accordance with subsection (1); or
- (d) the amount of such compensation;

then, if settlement by negotiation between the parties has not been possible and if the parties do not otherwise agree, the matter shall be submitted, upon the request of any of the parties, to conciliation, and if that does not succeed, then to arbitration according to the procedures set out in the Annex to the INTERVENTION Convention.

36. Offences

- (1) Every person commits an offence who:
 - (a) fails to comply with any instructions issued by the *(Minister/Secretary)* pursuant to section 34 or by any person duly authorised by the *(Minister/Secretary)*; or
 - (b) willfully obstructs a person acting in compliance with any instructions issued by the *(Minister/Secretary)* pursuant to section 34 of this Act or by any person duly authorised by the *(Minister/Secretary)*; or
 - (c) willfully obstructs the *(Minister/Secretary)* or any person acting on behalf of the *(Minister/Secretary)* in carrying out any of the powers conferred on the *(Minister/Secretary)* by section 34.

- (2) Every person who commits an offence under this section is liable upon conviction to a fine not exceeding ~~(\$25,000)~~ for each day during which the offence has continued.

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- (3) In any proceedings for an offence under this section it shall be a defence for a defendant to prove on the balance of probabilities that:
 - (a) the failure to comply with any instructions issued under section 34 of this Act; or
 - (b) the willful obstruction of:
 - (i) any person acting in compliance with such instruction duly issued; or
 - (ii) the *(Minister/Secretary)* or any person acting on behalf of the *(Minister/Secretary)*;
 resulted from the need to save life at sea.

- (4) In any proceedings for an offence under this section, it shall also be a defence to prove on the balance of probabilities that the person charged with the offence used all due diligence to comply with any instructions issued by the *(Minister/Secretary)* pursuant to section 34 or by any person duly authorised by the *(Minister/Secretary)*.

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37. Protection from liability

Where

- (a) the (*Minister/Secretary*) or any person duly authorised by the (*Minister/Secretary*) has taken any measures pursuant to paragraph (b) of section 34 (2); or
- (b) any person has taken any action or refrained from taking any action in accordance with instructions issued pursuant to paragraph (a) of section 34 (2);

then, subject to section 35 the (*Minister/Secretary*) or that person, as the case may be, shall not incur any civil liability in respect thereof.

PART V - LIABILITY AND COMPENSATION FOR POLLUTION DAMAGE FROM SHIPS

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38. General application of this Part

(1) Part V relates to liability and compensation for damage from all forms of pollution from ships, and shall be applied consistent with the principles and provisions of CLC 92 and FUND 92, the HNS Convention and the Bunkers Convention.

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(2) This Part shall not apply to warships, naval auxiliaries or other ships owned or operated by at State and used for the time being on Government non-commercial service.

(3) No liability for pollution damage shall attach to the owner if he proves that the damage

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by an act or omission done with intent to cause damage by a third party; or

(c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

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

(5) When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under subsections 38 (3) and (4), shall be jointly and severally liable for all such damage which is not reasonably separable.

~~(6) No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with this Part.~~

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(7) (a) The "unit of account" referred to in sections 41A (1), 41B (1), and 41C (1) is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in these subsection shall be converted into (*Pasifikan*) currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the

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constitution of the fund referred to in subsection 41A (3), 41B (3), 41C (3).

(b) The value of the (Pasifikan) currency, in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions.

(c) Other calculations of the "unit of account" to local currencies shall be in accordance with Article V 9 (a) - (c) of CLC 92, paragraphs (a) to (c).

39A. Liability for oil pollution damage

(1) The owner of an oil tanker at the time of an incident, or where the incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any pollution damage caused by the tanker as a result of the incident.

(2) No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with this Part. Subject to section 38 (5), no claim for compensation for pollution damage under this Part or otherwise may be made against:

- (a) servants or agents of the owner or members of the crew;
- (b) the pilot or any other person who, without being a member of the crew, performs services for the tanker;
- (c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the tanker;
- (d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
- (e) any person taking preventive measures;
- (f) all servants or agents of persons mentioned in sub-paragraphs (c), (d) and (e); unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(3) Nothing in this Part shall prejudice any right of recourse of the owner against third parties.

39B Liability for pollution damage from hazardous and noxious substances

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

(2) No liability for pollution damage shall attach to the owner if he proves that the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either

- (i) has caused the damage, wholly or partly; or
- (ii) has led the owner not to obtain compulsory insurance required by the HNS Convention; provided that neither the owner nor its servants or

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(a) . resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or¶

(b) . was wholly caused by an act or omission done with intent to cause damage by a third party; or¶

(c) . was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

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agents knew or ought reasonably to have know of the hazardous and noxious nature of the substances shipped.

(3) Subject to subsection (4) no claim for compensation for pollution damage under this Part or otherwise may be made against:

(a) servants or agents of the owner or members of the crew;

(b) the pilot or any other person who, without being a member of the crew, performs services for the ship;

(c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;

(e) any person taking preventive measures;

(f) all servants or agents of persons mentioned in (c), (d) and (e);

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

(4) Nothing in this Part shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage, or the persons indicated in subsection 39B (3).

39C Liability for pollution damage from bunkers

(1) Except as provided in subsections 38 (3) and 38 (4), the shipowner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship, provided that, if an incident consists of a series of occurrences having the same origin, the liability shall attach to the shipowner at the time of the first of such occurrences.

(2) Nothing in this Part shall prejudice any right of recourse of the shipowner which exists independently of this Part.

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40. Actions for compensation

(1) ~~Where an incident has caused pollution damage in (Pasifika), including the Territorial Sea or Exclusive Economic Zone (Pasifikan Waters) or preventive measures have been taken to prevent or minimise pollution damage in (Pasifika), including the Territorial Sea or Exclusive Economic Zone (Pasifikan Waters), actions for compensation against the shipowner, insurer or other person providing security for the shipowner's liability may be brought only in the courts of (Pasifika).~~

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(2) Any such action shall be brought in the (specify court to have jurisdiction).

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~~(3) Reasonable notice of any such action shall be given to the defendant.~~

~~41A. Limitation of liability for oil pollution damage~~

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

- (a) 3 million units of account for a tanker not exceeding 5,000 units of tonnage;
- (b) for a ship with a tonnage in excess thereof, for each additional unit of tonnage, 420 units of account in addition to the amount mentioned in subparagraph (a);

PROVIDED, however, that this aggregate amount shall not in any event exceed 59.7 million units of account.

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

(3) For the purpose of availing himself of the benefit of the limitation provided for in subsection (1), the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of (Pasifika) in which action is brought under Article IX of CLC 92 or, if no action is brought, with any Court or other competent authority in any Contracting State in which an action can be brought under Article IX of CLC 92. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee in an amount considered adequate by the Court or other competent authority.

(4) The fund shall be distributed among the claimants in proportion to the amounts of their established claims.

(5) If before the fund is distributed the owner or any of his servants or agents or any person providing him insurance or other financial security has, as a result of the incident in question, paid compensation for pollution damage, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Part.

(6) The right of subrogation provided for in subsection (5) may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for pollution damage that he may have paid.

(7) Where the owner or any other person establishes that he may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which such person would have enjoyed a right of subrogation under subsections (5) or (6), had the compensation been paid before the fund was distributed, the Court may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

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

(9) For the purpose of this section the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.

(10) The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this section on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even if, under the provisions of subsection (2), the owner is not entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

41B. Limitation of liability for damage from hazardous and noxious substances

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

(a) 10 million units of account for a ship not exceeding 2,000 units of tonnage;
and

(b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (a):
for each unit of tonnage from 2,001 to 50,000 units of tonnage, 1,500 units of account;
for each unit of tonnage in excess of 50,000 units of tonnage, 360 units of account;

PROVIDED, however, that this aggregate amount shall not in any event exceed 100 million units of account.

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

(3) The owner shall, for the purpose of benefiting from the limitation provided for in subsection (1), constitute a fund for the total sum representing the limit of liability established in accordance with subsection (1) with the Court or other competent authority of (Pasifika) in which action is brought under Article 38 of HNS 1996 or, if no action is brought, with any Court or other competent authority in any Contracting State in which an action can be brought under Article 38 of HNS 1996. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee in an amount considered adequate by the Court or other competent authority.

(4) (a) The fund shall be distributed among the claimants in proportion to the amounts of their established claims.

(b) Claims in respect of death or personal injury have priority over other claims save to the extent that the aggregate of such claims exceeds two thirds of the total amount of the constituted fund.

(5) If before the fund is distributed the owner or any of his servants or agents or any person providing the owner insurance or other financial security has, as a result of the incident in question, paid compensation for pollution damage, such person shall, up to

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(b) . The value of the (*Pasifikan*) currency, in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions.¶

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(c) . Other calculations of the "unit of account" to local currencies shall be in accordance with Article V 9 (a) - (c) of CLC 92, paragraphs (a) to (c).¶

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the amount that person has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Part.

- (6) The right of subrogation provided for in subsection (5) may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for damage which such person may have paid but only to the extent that such subrogation is permitted under the law of (Pasifika).
- (7) Where owners or other persons establish that they may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which the right of subrogation would have been enjoyed under subsections (5) or (6) had the compensation been paid before the fund was distributed, the Court may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce the claim against the fund.
- (8) Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise damage shall rank equally with other claims against the fund.
- (9) For the purpose of this section the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969.
- (10) The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this section on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even if, under the provisions of subsection (2), the owner is not entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

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41C. Limitation of liability for pollution damage from bunkers

Nothing in this Convention shall affect the right of the shipowner and the person or persons providing insurance or other financial security to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

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42. Rights of owner on constitution of fund

- (1) Where the owner, after an incident, has constituted a fund in accordance with section 38 (3) and is entitled to limit his liability
 - (a) no person having a claim for pollution damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim;
 - (b) the Court shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for marine pollution damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.
- (2) The foregoing, however, shall only apply if the claimant has access to the Court administering the fund and the fund is actually available in respect of his claim.

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43A. Requirement for insurance for oil pollution damage

- (1) The owner of a oil tanker registered in a Contracting State and carrying more than 2,000 tons of oil in bulk as cargo shall be required to maintain insurance or other financial security, such as the guarantee of a bank or a certificate delivered by an international compensation fund, in the sums fixed by applying the limits of liability prescribed in section 41 A (1).
- (2) A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Part shall be issued to each (*Pasifikan*) tanker after the Secretary has determined that the requirements of subsection (1) have been complied with.
- (3) With respect to a ship registered in a Contracting State such certificate shall be issued or certified by the Registrar of Ships. With respect to a ship that is not registered in a Contracting State it may be issued or certified by the appropriate authority of any Contracting State. This certificate shall be in the form prescribed in the Annex to CLC 92 and shall contain the following particulars:
 - (a) name of ship and port of registration;
 - (b) name and principal place of business of owner;
 - (c) type of security;
 - (d) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established;
 - (e) period of validity of certificate which shall not be longer than the period of validity of the insurance or other security.
- (4) The certificate shall be in the official language or languages of the issuing State. If the language used is not English or French, the text shall include a translation into one of these languages.
- (5) The certificate shall be carried on board the ship and a copy shall be deposited with the authorities that keep the record of the ship's registry or, if the ship is not

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registered in a Contracting State, with the authorities of the State issuing or certifying the certificate.

- (6) An insurance or other financial security shall not satisfy the requirements of this section if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under subsection (2), before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in subsection (5), unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification that results in the insurance or security no longer satisfying the requirements of this section.
- (7) The State of registry shall, subject to the provisions of this section, determine the conditions of issue and validity of the certificate.
- (8) Certificates issued or certified under the authority of a Contracting State in accordance with paragraph 2 of Article VII of CLC 92, shall be accepted by *(Pasifika)* for the purposes of that Convention and shall be regarded by *(Pasifika)* as having the same force as certificates issued or certified by them even if issued or certified in respect of a ship not registered in a Contracting State.
- (9) Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the owner's liability for pollution damage. In such case the defendant may, even if the owner is not entitled to limit his liability prescribed in section 41(2) avail himself of the limits of liability prescribed in section 41A(1). He may further avail himself of the defences (other than the bankruptcy or winding up of the owner) which the owner himself would have been entitled to invoke. Furthermore, the defendant may avail himself of the defence that the pollution damage resulted from the wilful misconduct of the owner himself, but the defendant shall not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the owner against him. The defendant shall in any event have the right to require the owner to be joined in the proceedings.
- (10) Any sums provided by insurance or by other financial security maintained in accordance with subsection (1) shall be available exclusively for the satisfaction of claims under CLC 92.
- (11) *(Pasifika)* shall not permit a ship under its flag to which this section applies to trade unless a certificate has been issued under subsections (2) or (13) of this section.
- (12) Subject to the provisions of this section, the Secretary shall ensure that insurance or other security to the extent specified in subsection (1) is in force in respect of any ship, wherever registered, entering or leaving a port in *(Pasifika)*, or arriving at or leaving an offshore terminal in *(Pasifikan)* waters, if the ship actually carries more than 2,000 tons of oil in bulk as cargo.
- (13) If insurance or other financial security is not maintained in respect of a ship owned by a Contracting State, the provisions of this section relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limits prescribed by section 41(1). Such a certificate shall follow as closely as practicable the model prescribed by sub-section (2).

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43B. Requirement for insurance for damage from hazardous and noxious substances

- (1) The owner of a ship registered in a State Party operating in (*Pasifikan*) waters and actually carrying hazardous and noxious substances shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, in the sums fixed by applying the limits of liability prescribed in section 41B (1).
- (2) A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Part shall be issued to each (*Pasifikan*) ship after the Secretary has determined that the requirements of subsection (2) have been complied with.
- (3) With respect to a ship registered in a State Party such compulsory insurance certificate shall be issued or certified by the Registrar of Ships; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form model set out in Annex I of the HNS Convention and shall contain the following particulars:
- (a) name of the ship, distinctive number or letters and port of registry;
 - (b) name and principal place of business of the owner;
 - (c) IMO ship identification number;
 - (d) type and duration of security;
 - (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
 - (f) period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.
- (4) The compulsory insurance certificate shall be in the official language or languages of (*Pasifika*). If the language used is neither English nor French, the text shall include a translation into one of these languages.
- (5) The compulsory insurance certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities of the State issuing or certifying the certificate.
- (6) An insurance or other financial security shall not satisfy the requirements of this section if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under subsection (2), before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in subsection (5), unless the compulsory insurance certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this section.
- (7) The State of the ship's registry shall, subject to the provisions of this section, determine the conditions of issue and validity of the compulsory insurance certificate.
- (8) Compulsory insurance certificates issued or certified under the authority of a State Party in accordance with subsection (2) shall be accepted by (*Pasifika*) for the purposes of this section and shall be regarded by (*Pasifika*) as having the same force as compulsory insurance certificates issued or certified by (*Pasifika*), even if issued or certified in respect of a ship not registered in a State Party. (*Pasifika*) may at any

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time request consultation with the issuing or certifying State, should it believe that the insurer or guarantor named in the compulsory insurance certificate is not financially capable of meeting the obligations imposed by this section.

- (9) Any claim for compensation for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage. In such case the defendant may, even if the owner is not entitled to limitation of liability benefit from the limitation of liability prescribed in section 41B (1). The defendant may further invoke the defences (other than the bankruptcy or winding up of the owner) which the owner would have been entitled to invoke. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the owner himself, but the defendant shall not invoke any other defence which he might have been entitled to invoke in proceedings brought by the owner against the defendant. The defendant shall in any event have the right to require the owner to be joined in the proceedings.
- (10) Any sums provided by insurance or by other financial security maintained in accordance with subsection (1) shall be available exclusively for the satisfaction of claims under HNS 1996.
- (11) (Pasifika) shall not permit a ship under its flag to which this section applies to trade unless a certificate has been issued under subsections (2) or (13) of this section.
- (12) Subject to the provisions of this section, the Secretary shall ensure that insurance or other security to the extent specified in subsection (1) is in force in respect of any ship, wherever registered, entering or leaving a port in (Pasifika), or arriving at or leaving an offshore terminal in (Pasifikan) waters,.
- (13) If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this section relating thereto shall not be applicable to such ship, but the ship shall carry a compulsory insurance certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed by section 41B (1). Such a compulsory insurance certificate shall follow as closely as practicable the model prescribed by sub-section 41B (3).

43C. Requirement for insurance for pollution damage from bunkers

- (1) The registered owner of a ship having a gross tonnage greater than 1000 registered in (Pasifika) shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases, not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.
- (2) A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Part shall be issued by the Secretary to each (Pasifikan) ship after he has determined that the requirements of subsection (1) have been complied with.
- (3) With respect to a ship registered in Pasifika such certificate shall be issued or certified by the Registrar of Ships; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This certificate shall be in the form of the model set out in the annex to the Bunkers Convention and shall contain the

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following particulars:

- (a) name of ship, distinctive number or letters and port of registry;
- (b) name and principal place of business of the registered owner;
- (c) IMO ship identification number;
- (d) type and duration of security;
- (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established;
- (f) period of validity of the certificate which shall not be longer than the period of validity of the insurance or other security.

- (4) (a) The (Minister/Secretary) (Pasifika) may authorize either an institution or an organization recognized by it to issue the certificate referred to in subsections (2) and (3). Such institution or organization shall inform (Minister/Secretary) (Pasifika) of the issue of each certificate. In all cases, the (Minister/Secretary) (Pasifika) shall fully guarantee the completeness and accuracy of the certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.
- (b) The (Minister/Secretary) (Pasifika) shall notify the Secretary-General of :
- (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognised by it;
 - (ii) the withdrawal of such authority; and
 - (iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.

- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the (Minister/Secretary) (Pasifika).

- (5) The certificate shall be in the official language or languages of (Pasifika). If the language used is not English, nor French, the text shall include a translation into one of these languages.
- (6) The certificate shall be carried on board Pasifikan ships and a copy shall be deposited with the Registrar of Ships.
- (7) An insurance or other financial security shall not satisfy the requirements of this section if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under subsections (2) and (3) of this section, before three months have elapsed from the date on which notice of its termination is given to the Registrar of Ships, unless the certificate has been surrendered to the Registrar of Ships or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this section.
- (8) The (Minister/Secretary) (Pasifika) shall, subject to the provisions of this section, determine the conditions of issue and validity of the certificate.
- (9) The (Minister/Secretary) (Pasifika) may obtain information from other States or the International Maritime Organization or other international organisations

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relating to the financial standing of providers of insurance or financial security.

- (10) Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the registered owner's liability for pollution damage. In such a case the defendant may invoke the defences (other than bankruptcy or winding up of the shipowner) which the shipowner would have been entitled to invoke, including limitation pursuant to article 6. Furthermore, even if the shipowner is not entitled to limitation of liability according to article 6, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the pollution damage resulted from the wilful misconduct of the shipowner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the shipowner against the defendant. The defendant shall in any event have the right to require the shipowner to be joined in the proceedings.
- (11) The (Minister/Secretary) (Pasifika) shall not permit a ship under its flag to which this section applies to operate at any time, unless a certificate has been issued.
- (12) If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this section relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed by section 41C (1). Such a compulsory insurance certificate shall follow as closely as practicable the model prescribed by sub-section 41C (3).

44. Right of compensation extinguished

- (1) Rights of compensation for oil pollution damage shall be extinguished in accordance with the provisions of Article VIII of the CLC Convention.
- (2) Rights of compensation for damage from hazardous and noxious substances shall be extinguished in accordance with the provisions of Article 37 of the HNS Convention.

45. Jurisdiction of courts where pollution damage occurs in more than one State

- (1) Where an incident has caused pollution damage in (*Pasifikan*) waters and in the Territorial Sea or Exclusive Economic Zone of one or more Contracting States or preventive measures have been taken to prevent or minimise pollution damage (*Pasifikan*) waters and in the Territorial Sea or Exclusive Economic Zone of one or more Contracting States, actions for compensation may only be brought in the Courts of (*Pasifika*) or any such Contracting States. Within ninety (90) days notice of any such action shall be given to the defendant.
- (2) After the fund has been constituted in accordance with sections 41A and 41B the Court in which the fund is constituted shall be exclusively competent to determine all matters relating to the apportionment and distribution of the fund.

46. Judgements enforceable

- (1) Any judgement given by a Court with jurisdiction in accordance with section 45, which is enforceable in the State of origin, where it is no longer subject to ordinary forms of review, shall be recognised in any Contracting State, except:
- (a) where the judgement was obtained by fraud; or

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(b) where the defendant was not given reasonable notice and a fair opportunity to present his case.

(2) A judgement recognised under subsection (1) shall be enforceable in each Contracting State as soon as the formalities required in that State have been complied with. These formalities shall not permit the merits of the case to be re-opened.

47. Exemptions

(1) The provisions of this Part shall not apply to warships or other ships owned or operated by a State and used, for the time being, only on government non-commercial service.

(2) With respect to ships owned by a Contracting State and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in section 45 and shall waive all defences based on its status as a sovereign State.

48. International Funds

(1) The Fund for compensation for pollution damage from oil established under the FUND Convention 92, has the following aims:

(a) to provide compensation for pollution damage to the extent that the protection afforded by CLC 92 is inadequate;

(b) to give effect to the related purposes set out in FUND Convention 92.

(2) The Fund for compensation for pollution damage established under Chapter III of the HNS Convention has the following aims:

(a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by Chapter II of the HNS Convention is inadequate or unavailable;

(b) to give effect to the related tasks set out in Article 15 of the HNS Convention.

(3) These Funds shall be recognised as a legal person capable under the laws of (*Pasifika*) of assuming rights and obligations and of being a party in legal proceedings before the courts of (*Pasifika*).

(4) The Director of these Funds shall be its legal representative.

49. Application of the International Funds

The International Funds shall apply exclusively:

(a) to pollution damage caused in (*Pasifikan*) territory, including its Territorial Seas and Exclusive Economic Zone; and

(b) to preventive measures, wherever taken, to prevent or minimise such damage.

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50. International Funds to pay compensation

(1) For the purpose of fulfilling its function under section 48 (1) (a), the Fund shall pay compensation, in accordance with the provisions of the FUND Convention 92, to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of CLC 92.

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(2) For the purpose of fulfilling its function under section 48 (2) (a), the HNS Fund shall pay compensation, in accordance with the provisions of the HNS Convention, to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of Chapter II of the HNS Convention.

PART VI - DUMPING AND INCINERATION OF WASTES

51. General application of this Part

Part VI shall be applied consistent with the principles and provisions of the London Convention as amended by the Protocol of 1996 relating thereto.

52. Dumping of wastes and other matter

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(1) The dumping of any wastes or other matter is prohibited, except for those listed in subsection 2.

(2) The following wastes or other matter may be considered for dumping:

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- (a) dredged material;
- (b) sewage sludge;
- (c) fish waste, or material resulting from industrial fish processing operations;
- (d) vessels and platforms or other man-made structures at sea;
- (e) inert, inorganic geological material;
- (f) organic material of natural origin; and
- (g) bulky items primarily comprising iron, steel, concrete and similarly unarmful materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping.

(3) The dumping of wastes or other matter listed in subsection (2) shall require a Dumping Permit, issued pursuant to section 53.

(4) Notwithstanding subsection (2), the material referred to in (2) (d) and (g) may be considered for dumping, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious obstacle to fishing or navigation.

Deleted: Notwithstanding subsection (1), the material referred to in (1) (d) and (g) may be considered for dumping, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious obstacle to fishing or navigation.¶

(5) Any person who fails to comply with any provision of this section commits an offence and shall be liable upon conviction to a fine not exceeding (\$500,000) or a term of imprisonment not exceeding (10 years), and shall, in addition, be also liable to pay such amount as the Court may assess in respect of the costs that have been incurred or will be incurred in removing or cleaning up or dispersing any waste or other matter to which the offence relates.

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53. Dumping Permits

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- (1) A person wishing to dump wastes or other matter listed under section 52(2) at sea shall apply in writing to the (*Minister/Secretary*) for a Dumping Permit. In applying for a Dumping Permit, the person shall provide the (*Minister/Secretary*) with the following information in writing:
 - (a) the characteristics, composition and quantity of the waste or other matter intended to be dumped;
 - (b) the method by which the waste or other matter is to be dumped and the proposed location; and
 - (c) such other information as may be required by the (*Minister/Secretary*).

- (2) In assessing a permit application, the (*Minister/Secretary*) shall cause to be carried out an assessment of alternatives to dumping, taking into account the following:
 - (a) types, amounts, and relative hazard of wastes generated;
 - (b) details of the production process and the sources of wastes within the process;
 - (c) feasibility of the following waste reduction/prevention techniques:
 - product reformulation;
 - clean production technologies;
 - process modification;
 - input substitution; and
 - on-site, closed-loop recycling.

- (3) Where the above assessment of alternatives to dumping reveals that dumping is necessary, a Dumping Permit may be issued, provided however that the permit shall specify, as a condition precedent, compliance with any resulting waste reduction and prevention requirements recommended in the assessment, in accordance with Annex 2 of the 1996 Protocol to the London Convention.

- (4) In considering whether a Dumping Permit should be granted the (*Minister/Secretary*) shall take into account:
 - (a) the chemical, physical and biological properties of the material, including:
 - (i) origin, total amount, form and average composition;
 - (ii) properties: physical, chemical, biochemical and biological;
 - (iii) toxicity;
 - (iv) persistence: physical, chemical and biological; and
 - (v) accumulation and biotransformation in biological materials or sediments; and
 - (b) the characteristics of the proposed dump site, including:
 - (i) the physical, chemical and biological characteristics of the water-column and the seabed;
 - (ii) location of amenities, values and other uses of the sea in the area under consideration;
 - (iii) assessment of the constituent fluxes associated with the dumping in relation to existing fluxes of substances in the marine environment; and
 - (iv) economic and operational feasibility; and
 - (c) general considerations and conditions, including:
 - (i) possible effects on amenities including, presence of floating or stranded material, turbidity, objectionable odour, discoloration, and foaming;
 - (ii) possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture;

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- (iii) possible effects on other uses of the sea including, impairment of water quality for industrial use, underwater corrosion of structures, interference with vessel operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor, and protection of areas of special importance for scientific or conservation purposes.
- (5) When the (*Minister/Secretary*) is satisfied that the above requirements have been met, he/she may issue a Dumping Permit specifying:
- (a) the person who shall be responsible for carrying out the dumping;
 - (b) the vessel, aircraft, or platform to be used in the dumping;
 - (c) the type of waste or other material to be dumped;
 - (d) the quantity to be dumped;
 - (e) the method of dumping to be used;
 - (f) the specific location at sea of the dumping; and
 - (g) such other conditions and requirements as the (*Minister/Secretary*) thinks fit, having regard to subsection (1) to (4) above.
- (6) Any Dumping Permit so issued may contain such terms and conditions that the (*Minister/Secretary*) thinks necessary for the preservation of the environment, including:
- (a) the types and sources of materials to be dumped;
 - (b) the location of the dump-site(s);
 - (c) the method of dumping; and
 - (d) monitoring and reporting requirements.
- (7) Notwithstanding anything in this Act, no Dumping Permit shall authorise the dumping of radioactive waste or other radioactive matter.
- (8) Any person who fails to comply with any provision of this section, or the terms and conditions contained in a Dumping Permit, commits an offence and shall liable upon conviction to a fine not exceeding (\$100,000), and, in addition, to a fine not exceeding (\$20,000) for each day during which the offence has continued.

54. Incineration at sea

- (1) The incineration at sea of wastes or other matter is prohibited.
- (2) Any person who fails to comply with any provision of this section commits an offence and shall be liable upon conviction to a fine not exceeding (\$100,000), and, in addition, to a fine not exceeding (\$20,000) for each day during which the offence has continued.

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55. Exceptions

- (1) Where a person is charged with an offence under this Part it shall be a defence to prove on the balance of probabilities that the dumping of the waste or other matter or the failure to comply with any condition or requirement of the permit was necessary:
 - (a) to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather; or
 - (b) in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping at sea appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur.
- (2) Such dumping shall be conducted to minimise the likelihood of damage to human or marine life and shall be reported to the (*Minister/Secretary*) as soon as possible.

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PART VII - MISCELLANEOUS PROVISIONS

56. State-owned ships

The provisions of this Act shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service.

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57. Regulations

The (*Minister/Secretary*) may, (with the consent of Cabinet), make Regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration and to any International Convention.

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(b) aircraft being used as aircraft of a State other than (*Pasifika*).¶

¶ (2) The provisions of this Act shall apply to Government vessels.¶

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58. Offences and penalties

- (1) Every person who commits an offence against this Act or any regulations made thereunder for which no penalty is provided elsewhere, shall be liable upon conviction to a fine not exceeding (\$10,000).
- (2) Where an offence against this Act is a continuing one and no penalty is provided elsewhere for the continuance thereof, every person who commits that offence shall, in addition to any other liability, be liable upon conviction to a fine not exceeding (\$1,000) for every day during which the offence continues.

59. Recovery of fines by distress

Where a Court orders a person convicted of any offence against this Act to pay any fine or other costs and that person is the owner or master of a vessel registered under this Act and the fine or other costs are not paid within the time and in the manner specified by the conviction or in the Order of the Court, the Court may, in addition to any other power it may have to compel payment, and notwithstanding any other Act, direct the amount remaining unpaid to be levied by distress or by the sale of the vessel or the equipment of the vessel, as the case requires.

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Sunday, 01 June 2003
Wednesday, 17 December 2003 & Friday, 19 December 2003
Saturday, 20 December 2003

Deleted: Checklist¶

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¶
¶ This check-list identifies sections and sub-sections of the model legislation where country-specific wording needs to be inserted.¶

¶
¶
¶ Section 1(1): *(year)*¶

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¶ Section 1(2): *(Pasifikan)*¶

¶
¶
¶ Section 1(3): *(in accordance with Pasifika's process for coming into force)*¶

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¶
¶ Section 2(1): *(Pasifika)* and *(Pasifikan)* throughout this section, check all definitions.¶

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¶ Section 3: *(Minister/Secretary)*¶

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¶ Section 4: *(Minister/Secretary)*¶

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¶ Section 5(1): *(Pasifikan)* x 2¶

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¶ Section 5(2): *(Pasifikan)*
(\$250,000) (10)¶

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¶ Section 6(1): *(Pasifikan)*.¶

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¶
¶ Section 6(2):
(Pasifikan)(\$150,000)¶

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¶ Section 6(3): *(Pasifikan)*¶

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¶ Section 6(4): *(Pasifikan)*
(Minister/Secretary)¶

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¶
¶ Section 6(5): *(Pasifikan)*¶

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¶ Section 7(1): *(Pasifikan)*¶

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¶ Section 7(2): *(\$150,000)*¶

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¶
¶ Section 8(1): *(Pasifika)*¶

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¶
¶ Section 8(2): *(Pasifika) (\$50,000)*¶

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¶
¶ Section 9(1): *(Pasifika)*¶

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¶
¶ Section 9(3): *(\$50,000)*¶

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¶ Section 10(1):
(Minister/Secretary)¶

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¶ Section 10(2):
(Minister/Secretary)¶

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¶ Section 10(3):
(Minister/Secretary)¶

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¶
¶ Section 10(4): *(\$10,000) (1 year)*¶

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¶ Section 11(1):
(Minister/Secretary) (Pasifika)¶

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¶
¶ Section 11(2): *(Pasifika)*¶

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¶
¶ Section 11(5):
(Minister/Secretary) x 2 ... [1]

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Checklist

This check-list identifies sections and sub-sections of the model legislation where country-specific wording needs to be inserted.

Section 1(1): (*year*)

Section 1(2): (*Pasifikan*)

Section 1(3): (*in accordance with Pasifika's process for coming into force*)

Section 2(1): (*Pasifika*) and (*Pasifikan*) throughout this section, check all definitions.

Section 3: (*Minister/Secretary*)

Section 4: (*Minister/Secretary*)

Section 5(1): (*Pasifikan*) x 2

Section 5(2): (*Pasifikan*) (*\$250,000*) (*10*)

Section 6(1): (*Pasifikan*).

Section 6(2): (*Pasifikan*)(*\$150,000*)

Section 6(3): (*Pasifikan*)

Section 6(4): (*Pasifikan*) (*Minister/Secretary*)

Section 6(5): (*Pasifikan*)

Section 7(1): (*Pasifikan*)

Section 7(2): (*\$150,000*)

Section 8(1): (*Pasifika*)

Section 8(2): (*Pasifika*) (*\$50,000*)

Section 9(1): (*Pasifika*)

Section 9(3): (*\$50,000*)

Section 10(1): (*Minister/Secretary*)

Section 10(2): (*Minister/Secretary*)

Section 10(3): *(Minister/Secretary)*

Section 10(4): *(\$10,000) (1 year)*

Section 11(1): *(Minister/Secretary) (Pasifika)*

Section 11(2): *(Pasifika)*

Section 11(5): *(Minister/Secretary) x 2*

Section 12(1): *(Pasifika) (Minister/Secretary)*

Section 12(3): *(Pasifika) (Pasifikan) (Minister/Secretary)*

Section 12(4): *(\$10,000)*

Section 13(1): *(Pasifikan) x 4*

Section 13(2): *(Pasifikan) x 2*

Section 13(4): *(Pasifikan)*

Section 13(5): *(Pasifikan) x 2*

Section 13(6): *(\$5,000)*

Section 13(7): *(\$5,000) (1 year)*

Section 14(1): *(Minister/Secretary) (Country Specific Process)*

Section 14(2): *(Pasifikan) x 2*

Section 14(4): *(\$50,000)*

Section 16(1): *(Minister/Secretary) x 2 (Pasifikan) (Pasifika)*

Section 16(2): *(Minister/Secretary) x 2*

Section 16(3): *(Minister/Secretary)*

Section 16(4): *(Minister/Secretary) (Minister) x 2*

Section 17(1): *(Minister/Secretary)*

Section 17(4): *(Minister/Secretary)*

Section 18(1): *(Minister/Secretary)*

Section 18(2): *(Pasifika)*

Section 19(1): *(Minister/Secretary)*

Section 19(2): *(Pasifikan) x 2*

Section 19(4): *(Minister/Secretary)*

Section 20(1): *(Minister/Secretary)*

Section 20(2): *(Pasifika)*

Section 20(4): *(Minister/Secretary) x 2 (Pasifikan)*

Section 20(5): *(\$10,000)*

Section 21(6): *(Minister)*

Section 22(1): *(Minister/Secretary)*

Section 22(2): *(Minister/Secretary)*

Section 23: *(Minister/Secretary)*

Section 25(1): *(Minister/Secretary) (country specific method/procedure)*

Section 25(3): *(Minister/Secretary)*

Section 26: *(Minister/Secretary)*

Section 27(1): *(Minister/Secretary)*

Section 27(2): *(Pasifika)*

Section 28(1): *(Pasifika) x 2*

Section 28(3): *(Minister/Secretary)*

Section 29(1): *(Minister/Secretary) x 3 (E.g. through Customs, Quarantine or port fee collection system)*

Section 30(2): *(Pasifika)*

Section 31(2): *(\$10,000) (\$50,000)*

Section 34: *(Minister/Secretary)*

Section 34(1): *(Pasifikan) (Minister/Secretary) (Pasifika) x 2*

Section 34(2): *(Minister/Secretary) x 2 (Pasifika) (Pasifikan)*

Section 34(3): (*Minister/Secretary*) x 2 (*Pasifikan*) (*Pasifika*)

Section 34(4): (*Minister/Secretary*)

Section 34(5): (*Minister/Secretary*) x 2 (*Pasifikan*) x 3

Section 34(6): (*Minister/Secretary*) x 3

Section 34(7): (*Minister/Secretary*) x 2

Section 34(8): (*Minister/Secretary*)

Section 34(9): (*Minister/Secretary*)

Section 35(1): (*Minister/Secretary*)

Section 35(2): (*Pasifika*) (*Pasifikan*)

Section 36(1): (*Minister/Secretary*) x 7

Section 36(2): (*\$10,000*)

Section 36(3): (*Minister/Secretary*) x 2

Section 36(4): (*Minister/Secretary*) x 2

Section 37: (*Minister/Secretary*) x 3

Section 40(1): (*Pasifikan*)

Section 40(3): (*specify court to have jurisdiction*)

Section 41(3): (*Pasifika*) x 2

Section 41(9): (*Pasifikan*) x 2

Section 43(2): (*Pasifikan*)

Section 43(8): (*Pasifika*) x 2

Section 43(11): (*Pasifika*)

Section 43(12): (*Pasifika*) (*Pasifikan*)

Section 45(1): (*Pasifikan*) x 2 (*Pasifika*)

Section 48(3): (*Pasifika*) x 2

Section 49: (*Pasifikan*)

Section 52(5): (\$500,000) (10 years)

Section 53(1): (Minister/Secretary) x 3

Section 53(2): (Minister/Secretary)

Section 53(4): (Minister/Secretary)

Section 53(5): (Minister/Secretary) x 3

Section 53(6): (Minister/Secretary)

Section 53(8): (\$100,000) (\$20,000)

Section 54(2): (\$500,000) (10 years)

Section 55(2): (Minister/Secretary)

Section 56(1): (Pasifika) x 2

Section 57: (Minister/Secretary)

Section 58(1): (\$10,000)

Section 58(2): (\$1,000)