



<b>Proposed Text</b> <b>(Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
INDEPENDENT STATE OF PAPUA NEW GUINEA	
	
<b><i>Marine Pollution (Ships &amp; Installations) Bill</i></b>	
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<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
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<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
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INDEPENDENT STATE OF PAPUA NEW GUINEA	Standard
	Standard
<p><b>A BILL</b></p> <p><b>for an</b></p> <p><b>ACT</b></p> <p><b>entitled</b></p> <p><b><i>Marine Pollution (Ships &amp; Installations) Act [insert yr]</i></b></p>	Drafter
<p>Being an Act -</p> <p>(a) to provide for the prevention and control of marine pollution from any vessel and any offshore installation in Papua New Guinea waters and from any Papua New Guinea vessel and offshore installation anywhere; and</p> <p>(b) to incorporate into the law of Papua New Guinea relevant provisions of certain international Conventions relating to marine pollution prevention and control; and</p> <p>(c) to repeal the <i>Prevention of Pollution of the Sea Act</i> and the <i>Prevention of Pollution of the Sea Regulation</i>; and</p> <p>(d) to make ancillary and related provisions.</p> <p>MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the Advice of the Minister.</p>	Drafter

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<b>Part I - Preliminary</b>	Standard
<p><b>1. Short title</b></p> <p>This Act may be cited as the <i>Marine Pollution (Ships &amp; Installations) Act</i>.</p>	Drafter
<p><b>2. Application</b></p> <p>Unless expressly provided otherwise, this Act applies to:</p> <ul style="list-style-type: none"> <li>(a) any Papua New Guinea vessel, wherever it may be;</li> <li>(b) any Papua New Guinea offshore installation, wherever it may be;</li> <li>(c) any vessel in Papua New Guinea waters; and</li> <li>(d) any offshore installation in Papua New Guinea waters.</li> </ul>	Drafter
<p><b>3. Compliance with constitutional requirements</b></p> <p>(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision 111.3.C (qualified rights) of the <i>Constitution</i>, namely:</p> <ul style="list-style-type: none"> <li>(a) the freedom from arbitrary search and entry conferred by Section 44 of the <i>Constitution</i>;</li> <li>(b) the right to privacy conferred by Section 49 of the <i>Constitution</i>;</li> <li>(c) the right to freedom of movement conferred by Section 52 of the <i>Constitution</i>;</li> <li>(d) the right to compensation conferred by Section 58 of the <i>Constitution</i>;</li> <li>(e) the protection from unjust deprivation of property conferred by Section 53 of the <i>Constitution</i>; and</li> </ul>	Drafter

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<p>(f) the right to freedom of information conferred by Section 51 of the <i>Constitution</i>;</p> <p>is a law made pursuant to Section 38 of the Constitution; made for the purpose of giving effect to the public interest in public order and public welfare.</p> <p>(2) For the purposes of Section 41(2) of the <i>Organic Law on Provincial Governments and Local-level Governments</i>, it is declared that this Act relates to a matter of national interest.</p> <p>(3) For the purposes of Section 41(6) of the <i>Organic Law on Provincial Governments and Local-level Governments</i>, it is declared that this Act is an Act of Parliament on a matter specified in Section 42 or 44 of the <i>Organic Law on Provincial Governments and Local-level Governments</i>, and prevails over any law made under Section 42 or 44 to the extent of any inconsistency.</p>	
<p><b>4. Interpretation</b></p> <p>In this Act, unless the contrary intention appears:</p>	Drafter
<p>“<b>AFS Convention</b>” means the <i>International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001</i>; as affected by any amendment other than an amendment not accepted by Papua New Guinea, which has been made and has come into force in accordance with the relevant provisions of the Convention;</p>	Drafter
<p>“<b>anti-fouling system</b>” means a coating, paint, surface treatment, surface or device that is used on a ship to control or prevent attachment of unwanted organisms, as defined in the AFS Convention;</p>	AFS Convention
<p>“<b>Authority</b>” means the National Maritime Safety Authority established by the <i>National Maritime Safety Authority Act</i>;</p>	Drafter
<p>“<b>Approved Organization</b>” means an organization approved by the Authority to undertake surveys and certifications of ships under Sections 11, 12, 13, 20, 21, 22 and 42.</p>	

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<p><b>“Approved Surveyor”</b> means an individual approved by the Authority to undertake surveys of ships under Sections 11 and 20.</p>	
<p><b>“discharge”</b> means in relation to pollutants, harmful substances or effluents containing such pollutants or substances, any release into Papua New Guinea waters or into the sea beyond Papua New Guinea waters, howsoever caused, from a vessel or offshore installation and includes any escape, disposal, spilling, leaking, pumping, jettisoning, throwing overboard, emitting or emptying; but does not include dumping within the meaning of the London Protocol;</p>	<p>SPREP/SPC Model created in 1999 and updated in 2003, here-in-after simply referred to as ‘SPREP/SPC Model’</p>
<p><b>“fishing gear”</b> means any equipment used to catch fish or other marine life including;</p> <p style="padding-left: 40px;">(a) nets, lines, traps and hooks, and</p> <p style="padding-left: 40px;">any associated equipment such as;</p> <p style="padding-left: 40px;">(b) ropes, floats, buoys, markers, weights and anchors,</p> <p style="padding-left: 40px;">as well as;</p> <p style="padding-left: 40px;">(c) packaging materials for bait and catch,</p> <p style="padding-left: 40px;">and includes;</p> <p style="padding-left: 40px;">(d) nets, ropes and other equipment made from plastics and other synthetic materials as well as non-synthetic materials;</p>	<p style="text-align: center;">Drafter</p>
<p><b>“FSU”</b> means floating storage unit;</p>	<p style="text-align: center;">MARPOL</p>
<p><b>“FSPO”</b> means floating storage, production and offloading unit;</p>	<p style="text-align: center;">MARPOL</p>
<p><b>"garbage"</b> means all kinds of victual, domestic and operational waste, including;</p> <p style="padding-left: 40px;">(a) all forms of plastics,</p> <p style="padding-left: 40px;">(b) dunnage,</p> <p style="padding-left: 40px;">(c) cargo-lining and packing material; and</p>	<p>MARPOL Annex V (adapted to be more specific and ‘fishing gear’ added as discrete item to explicitly include this major problem)</p>

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<p>(d) other waste,  generated during the normal, day-to-day operation of a vessel; as well as;</p> <p>(e) fishing gear; and  excluding;</p> <p>(a) oil, noxious liquid substances, harmful substances in packaged form and sewage as defined in this Act; and</p> <p>(b) fresh fish and parts thereof;</p>	
" <b>Government</b> " means the Government of Papua New Guinea;	Drafter
" <b>Gross tonnage</b> " means gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the <i>International Convention on Tonnage Measurement of Ships, 1969</i> ;	CLC 92
" <b>harmful substance</b> " means a substance which is identified as a marine pollutant in the International Maritime Dangerous Goods (IMDG) Code;	Annex III of MARPOL
" <b>IMDG Code</b> " means the <i>International Maritime Dangerous Goods Code</i> published by the International Maritime Organization from time to time;	SPREP/SPC Model
" <b>incident</b> " 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;	SPREP/SPC Model
" <b>inspector</b> " means;	Aus EP(SD)Act
<p>(a) a person appointed as an inspector under Subsection 57(1); or</p> <p>(b) a member of the Royal Papua New Guinea Constabulary, who is an inspector by force of Subsection 57(2);</p>	

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<p><b>“International Maritime Organization”</b> means the organisation established by the <i>International Maritime Organization Convention, 1958</i> whose task is to develop and administer the international regulatory regime for maritime safety and prevention and control of pollution from ships;</p>	Drafter
<p><b>“London Protocol”</b> means the <i>1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972</i> as affected by any amendment other than an amendment not accepted by Papua New Guinea, which has been made and has come into force in accordance with the relevant provisions of the Protocol;</p>	Drafter
<p><b>"marine pollution"</b> means the introduction by humans, directly or indirectly, of substances or energy into Papua New Guinea waters; which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of seawater and reduction of amenities; and “pollution” has a similar meaning;</p>	UNCLOS (adapted)
<p><b>“Maritime Zones of Papua New Guinea”</b> means –</p> <ul style="list-style-type: none"> <li>(a) the internal waters;</li> <li>(b) the territorial sea;</li> <li>(c) the contiguous zone; and</li> <li>(d) the exclusive economic zone</li> </ul> <p>of Papua New Guinea as defined in the <i>Maritime Zones Act</i> <b>[NB if this Bill passed before <i>Maritime Zones Bill</i> this will have to be changed to <i>National Seas Act</i>];</b></p>	
<p><b>“MARPOL Convention”</b> means the <i>International Convention for the Prevention of Pollution from Ships, 1973</i>; as amended by the Protocol of 1978 and as affected by any amendment other than an amendment not accepted by Papua New Guinea, which has been made and has come into force in accordance with the relevant provisions of the Convention;</p>	Drafter
<p><b>“master”</b> means the person in charge of a vessel at any one time;</p>	SPREP/SPC Model

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" <b>Minister</b> " means the Minister responsible for maritime transport;	SPREP/SPC Model
" <b>nearest land</b> " means the Baseline from which the territorial sea of Papua New Guinea is established as defined in Schedule 1 of the <i>Maritime Zones Act</i> ; and in the case where any Papua New Guinea vessel operates outside of Papua New Guinea waters, has the same meaning as defined in Annex 1 of MARPOL, including in relation to the Great Barrier Reef off the north-east coast of Australia;	Linked to Maritime Zones Act – NB if this Bill passed before <i>Maritime Zones Bill</i> definition will need to be amended to that in <i>National Seas Act</i>
" <b>noxious liquid substances</b> " means any substance referred to in Appendix II of Annex II of MARPOL;	SPREP/SPC Model
" <b>offshore installation</b> " means any man-made fixed or floating structure used for any purpose whatsoever; and includes but is not limited to pipelines, rigs and platforms and transfer, storage and loading facilities associated with offshore oil, gas and mineral exploration, extraction, production and transport;	Drafter
" <b>oil</b> " means 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) and, without limiting the generality of the foregoing, includes the substances listed in Appendix I to Annex I of MARPOL;	MARPOL Annex I
" <b>oil tanker</b> " 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 II 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;	MARPOL Annex I (adapted)
" <b>oily mixture</b> " means a mixture with any oil content;	MARPOL Annex I
" <b>owner</b> " means -	
<p style="text-align: center;">in relation to any vessel:</p> <p style="text-align: center;">(a) the registered owner or owners, if the vessel is a registered vessel;</p> <p style="text-align: center;">(b) the person owning the vessel, if the vessel is an</p>	SPREP/SPC Model

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<p style="text-align: center;">unregistered vessel;</p> <p style="text-align: center;">(c) the person or agency registered as the operator of the vessel, if the vessel is owned by the Government;</p> <p style="text-align: center;">and includes:</p> <p style="text-align: center;">(d) 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;</p> <p style="text-align: center;">(e) any agent in Papua New Guinea of the owner, charterer, manager, or operator; and</p> <p style="text-align: center;">(f) 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;</p>	
<p style="text-align: center;">in relation to any offshore installation:</p> <p style="text-align: center;">(a) the owner or operator or manager or licensee for the time being of the offshore installation, or any agent or employee, or any person in charge of operations connected therewith; and</p> <p style="text-align: center;">(b) 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 offshore installation is or has been or is to be used;</p>	SPREP/SPC Model
<p><b>“packaged form”</b> means a form of containment specified for harmful substances in the IMDG Code;</p>	Aus PS(PPS) Act as per Annex III to MARPOL
<p><b>“person”</b> means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent agencies and parts;</p>	SPREP/SPC Model
<p><b>"pollutant"</b> includes oil and oily mixtures, noxious liquid substances, harmful substances in packaged form, sewage and garbage as defined by MARPOL and any water contaminated by any such substance, and any other substance which added to any</p>	SPREP/SPC Model

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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;	
<b>"Papua New Guinea"</b> means the Independent State of Papua New Guinea;	SPREP/SPC Model
<b>"Papua New Guinea offshore installation"</b> means an offshore installation owned or registered in Papua New Guinea;	SPREP/SPC Model
<b>"Papua New Guinea vessel"</b> means a vessel owned in Papua New Guinea or a vessel registered or required to be registered under the <i>Merchant Shipping Act</i> , or any other vessel based in Papua New Guinea and operating under the authority of the Government;	SPREP/SPC Model
<b>"Papua New Guinea waters"</b> has the same meaning as Maritime Zones of Papua New Guinea;	Drafter
<b>"sea"</b> means all areas of water below highest astronomical tide and includes the ocean and any estuary, tidal area and lagoon;	SPREP/SPC Model
<b>"sewage"</b> in relation to vessels and offshore installations includes; <ul style="list-style-type: none"> <li>(a) drainage and other wastes from any form of toilets, urinals and toilet scuppers;</li> <li>(b) drainage from medical premises, including dispensaries and sick bays, by way of wash basins, wash tubs and scuppers located in such premises;</li> <li>(c) drainage from spaces containing living animals; and</li> <li>(d) other waste waters when mixed with the drainage mentioned in the foregoing provisions of this definition;</li> </ul>	MARPOL Annex IV
<b>"ship"</b> means any water-bourne vessel and craft of any size and type whatsoever and includes displacement and non-displacement craft, hydro-foil boats; air-cushion vehicles, submersibles, fixed or floating platforms, FSUs and FSPOs without regard to the	MARPOL (adapted)

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method of or lack of propulsion;	
<b>“ship building facility”</b> means any place on land, in the inter-tidal zone and in Papua New Guinea waters where vessels are constructed;	
<b>“ship repair facility”</b> means any place on land, in the inter-tidal zone and in Papua New Guinea waters where vessels are repaired and maintained, including cleaning, scraping and painting;	SPREP/SPC Model
<b>"transfer"</b> in relation to oil or any pollutant means the conveyance in bulk from a vessel to a place on land or vice versa, or from one vessel to another, or the internal transfer from tank to tank within a vessel, or from an offshore installation to a vessel of vice versa, or from one offshore installation to another; and	SPREP/SPC Model (adapted)
<b>“vessel”</b> has the same meaning as <b>“ship”</b> .	
<p><b>5. International Conventions</b></p> <p>(1) The following International Conventions, including any Protocols, Annexes, Appendices, Addenda and Amendments, other than a Protocol, Annex, Appendix, Addenda or Amendment not accepted by Papua New Guinea, which has been made and has come into force in accordance with the relevant provisions of the Convention; are the International Conventions to which this Act applies and which through this Act are to have the force of law in Papua New Guinea:</p> <p style="padding-left: 40px;">(a) AFS Convention; and</p> <p style="padding-left: 40px;">(b) MARPOL Convention.</p> <p>(2) Regulations made under this Act may:</p> <p style="padding-left: 40px;">(a) add to or delete from the list of Conventions contained in the Subsection (1), and any Convention added to the list may be implemented, enforced or otherwise applied in Papua New Guinea in accordance with this Act and any regulations made under this Act;</p> <p style="padding-left: 40px;">(b) make provision for any aspect of the application or</p>	Adapted from Samoa Marine Pollution Prevention Bill 2007

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<p>enforcement of a Convention to which this Act applies;</p> <p>(c) modify the application of any Convention to which this Act applies to meet the needs and circumstances of Papua New Guinea; and</p> <p>(d) prescribe offences for the breach of any provision of a Convention to which this Act applies, and any related offences, and impose penalties being fines not exceeding <b>K1,000,000</b>, or imprisonment for terms not exceeding <b>five</b> years, or both.</p> <p>(3) The breach of any obligation or duty arising under a Convention to which this Act applies shall constitute an offence under Section 63.</p> <p>(4) In the event of any inconsistency between the provisions of any of the Conventions to which this Act applies and the provisions of this Act, the Act shall apply.</p>	
<b>Part II - Prevention of pollution by oil</b>	SPREP/SPC Model
<p><b>6. Purpose and application of this Part</b></p> <p>(1) The purpose of this Part is to give effect to relevant provisions of Annex I of MARPOL.</p> <p>(2) This Part applies to all vessels except as otherwise provided in Sections 8 to 14.</p>	Drafter
<p><b>7. Discharge of oil</b></p> <p>(1) The discharge of oil, oily mixtures or oil residues from any vessel is prohibited.</p> <p>(2) If any oil, oily mixture or oil residues are discharged from any vessel in contravention of the provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel; and</p>	<p>SPREP/SPC Model (adapted to oil only – MARPOL Annex 1).</p> <p>Penalty applying to crew member adapted from Qld TO(MP) Act</p>

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<p>(c) any other member of the vessel's crew whose act caused or contributed to the discharge, unless the member was complying with an instruction from the master or someone authorised by the master to give the instruction; and/or</p> <p>(d) in the case where another vessel caused or contributed to the discharge, such as through collision with the vessel from which the discharge occurred, the owner and master of the other vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000,000</b> or a term of imprisonment not exceeding <b>five</b> years.</p> <p>(3) In the event of a discharge of oil, oily mixtures or oil residues from a vessel, the owner of the vessel shall also be subject to those provisions of the <i>Marine Pollution (Liability &amp; Cost Recovery) Act</i> as may be applicable.</p> <p>(4) This Section shall not apply to a discharge of oil, oily mixtures or oil residues;</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(b) resulting from damage to a vessel or its equipment; provided that;</p> <p style="padding-left: 80px;">(i) all reasonable precautions are taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing, stopping or minimising the discharge; and</p> <p style="padding-left: 80px;">(ii) the discharge is immediately reported to the Authority in accordance with Section 56;</p> <p>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 otherwise failed to maintain, manage and/or operate the vessel in a competent and responsible manner; or</p>	

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<p>(c) for purposes of combating specific pollution incidents in order to minimise pollution from such incidents, providing that the discharge is first approved in writing by the Authority and clearly reduces the pollution from the incident being combated.</p> <p>(5) This Section shall not apply to the discharge into the sea of oil or oily mixtures:</p> <p style="padding-left: 40px;">(a) from an oil tanker if:</p> <p style="padding-left: 80px;">(i) the oil tanker is not in a special area;</p> <p style="padding-left: 80px;">(ii) the oil tanker is more than 50 nautical miles from the nearest land;</p> <p style="padding-left: 80px;">(iii) the oil tanker is underway;</p> <p style="padding-left: 80px;">(iv) the instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile;</p> <p style="padding-left: 80px;">(v) the total quantity of oil discharged into the sea does not exceed 1/30,000 of the total quantity of the particular cargo of which the residue formed a part; and</p> <p style="padding-left: 80px;">(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 (Retention on board);</p> <p style="padding-left: 40px;">(b) from 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; if:</p> <p style="padding-left: 80px;">(i) the vessel is not within a special area;</p> <p style="padding-left: 80px;">(ii) the vessel is underway;</p> <p style="padding-left: 80px;">(iii) the oil content of the effluent without dilution does not exceed 15 parts per million; and</p> <p style="padding-left: 80px;">(iv) the vessel has in operation an oil discharge monitoring</p>	

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and control system and oil filtering equipment as required by Regulation 16 of Annex I of MARPOL.	
<p><b>8. Construction of vessels and oil pollution prevention equipment</b></p> <p>(1) Any vessel operating in Papua New Guinea waters shall comply with the construction, oil pollution prevention equipment and related provisions contained in the following Regulations of Annex I of MARPOL, as applicable to each vessel type and size:</p> <p style="padding-left: 40px;">(a) Regulation 13 and 13A to 13H regarding;</p> <p style="padding-left: 80px;">(i) segregated ballast tanks,</p> <p style="padding-left: 80px;">(ii) dedicated clean ballast tanks,</p> <p style="padding-left: 80px;">(iii) crude oil washing,</p> <p style="padding-left: 80px;">(iv) prevention of oil pollution in the event of collision or stranding, and</p> <p style="padding-left: 80px;">(v) related issues</p> <p style="padding-left: 40px;">for oil tankers, as applicable; and</p> <p>(b) Regulation 14 regarding segregation of oil and water ballast and related issues for any vessel other than an oil tanker of gross tonnage 400 and above, and any oil tanker of gross tonnage 150 and above; and</p> <p>(c) Regulation 15 regarding retention of oil on board for oil tankers of gross tonnage 150 and above; and</p> <p>(d) Regulation 16 regarding oil discharge monitoring and control systems and filtering equipment for any vessel as applicable; and</p> <p>(e) Regulation 17 regarding tanks for oil residues (sludge) for any vessel of gross tonnage 400 and above; and</p> <p>(f) Regulation 18 regarding pumping, piping and discharge arrangements for any oil tanker; and</p>	<p>SPREP/SPC Model (expanded to be more specific)</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(g) Regulation 19 regarding standard discharge connections for any vessel; and</p> <p>(h) Regulation 22 regarding damage assumptions for oil tankers; and</p> <p>(i) Regulation 23 regarding hypothetical outflow of oil for oil tankers; and</p> <p>(j) Regulation 24 regarding limitation of size and arrangement of cargo tanks for oil tankers; and</p> <p>(k) Regulation 25 and 25A regarding subdivision and stability of oil tankers.</p> <p>(2) Any Papua New Guinea vessel which does not comply with any applicable provision of Subsection (1) at the time of entry-into-force of this Act, may be allowed to continue to operate subject to approval by the Authority and under such terms and conditions and for such duration as the Authority may approve in writing.</p> <p>(3) If any vessel to which this Section applies does not comply with any provision of this Section, including any terms and conditions set by the Authority under Subsection (2):</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000,000</b> or a term of imprisonment not exceeding <b>five</b> years.</p>	
<p><b>9. Notices</b></p> <p>(1) Any vessel of 12 metres or more in length overall that operates in Papua New Guinea waters shall display notices in highly visible locations, and where relevant to the vessel, at least in the:</p> <p style="padding-left: 40px;">(a) wheel-house,</p> <p style="padding-left: 40px;">(b) engine room; and</p>	<p>Drafter (need to make crew and passengers aware of provisions, offences and penalties)</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(c) accommodation area;</p> <p>which notify the crew and passengers, in clear and simple terms, of the requirements of Subsections 7(1) and 7(2).</p> <p>(2) Such notices shall be in a format as approved by the Authority from time to time and shall be written in English and the working language of the vessel's crew.</p> <p>(3) If any vessel to which this Section applies does not comply with any provision of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000</b>.</p>	
<p><b>10. Oil Record Book</b></p> <p>(1) An Oil Record Book Part I (Machinery Space Operations), whether as part of the vessel's official log book or otherwise, in the form specified in Regulation 20 and Appendix III to Annex 1 of MARPOL, shall be carried by:</p> <p style="padding-left: 40px;">(a) any Papua New Guinea oil tanker of gross tonnage 150 and above; and</p> <p style="padding-left: 40px;">(b) any foreign oil tanker of gross tonnage 150 and above that operates in Papua New Guinea waters; and</p> <p style="padding-left: 40px;">(c) any Papua New Guinea vessel of gross tonnage 400 and above other than an oil tanker, and</p> <p style="padding-left: 40px;">(d) any foreign vessel of gross tonnage 400 and above other than an oil tanker that operates in Papua New Guinea waters.</p> <p>(2) The master of all vessels referred to Subsection (1) shall ensure that the Oil Record Book Part I is maintained and that a record is entered whenever any of the following machinery space operations are carried out:</p>	<p>SPREP/SPC Model (consistent with MARPOL Annex I Reg 20)</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(a) ballasting or cleaning of oil fuel tanks;</p> <p>(b) discharge of dirty ballast or cleaning water from tanks referred to in subparagraph (a);</p> <p>(c) disposal of oily residues (sludge); and</p> <p>(d) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces.</p> <p>(3) An Oil Record Book Part II (Cargo/Ballast Operations), whether as part of the vessel's official log book or otherwise, in the form specified in Regulation 20 and Appendix III to Annex 1 of MARPOL, shall be carried on:</p> <p style="padding-left: 40px;">(a) every Papua New Guinea oil tanker of gross tonnage 150 and above; and</p> <p style="padding-left: 40px;">(b) every foreign oil tanker of gross tonnage 150 and above that operates in Papua New Guinea waters.</p> <p>(4) The master of all vessels referred to Subsection (3) shall ensure that the Oil Record Book Part II is maintained and that a record is entered whenever any of the following machinery space operations are carried out:</p> <p style="padding-left: 40px;">(a) loading of oil cargo;</p> <p style="padding-left: 40px;">(b) internal transfer of oil cargo during a voyage;</p> <p style="padding-left: 40px;">(c) unloading of oil cargo;</p> <p style="padding-left: 40px;">(d) ballasting of cargo tanks and dedicated clean ballast tanks;</p> <p style="padding-left: 40px;">(e) cleaning of cargo tanks including crude oil washing;</p> <p style="padding-left: 40px;">(f) discharge of ballast except from segregated ballast tanks;</p> <p style="padding-left: 40px;">(g) discharge of water from slop tanks;</p> <p style="padding-left: 40px;">(h) closing of all applicable valves or similar devices after slop tank discharge operations;</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(i) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations; and</p> <p>(j) disposal of residues.</p> <p>(5) In the event of any discharge of the kind referred to in Subsections 7(4) and 7(5), whether intentional or accidental, an entry shall be made in the Oil Record Book stating the circumstances of, and the reason for, the discharge.</p> <p>(6) Each operation referred to in Subsections (2), (4) and (5) of this Section shall be fully recorded without delay in the Oil Record Books so that all entries in the Books appropriate to that operation are completed. Each entry shall be signed by the officer or officers in charge of the operation concerned and, when the vessel is manned, each page shall be signed by the Master of the vessel.</p> <p>(7) The entries in the Oil Record Books shall be in an official language of the State whose flag the vessel is entitled to fly, and, for vessels holding an International Oil Pollution Prevention Certificate, in English or French. The entries in an official national language of the State whose flag the vessel is entitled to fly shall prevail in case of a dispute or discrepancy.</p> <p>(8) The Oil Record Book shall be kept in such a place as to be readily available for inspection and, except in the case of unmanned vessels under tow, shall be kept on board the vessel. It shall be retained for a period of three years after the last entry has been made.</p> <p>(9) The owner, operator and person in charge of any offshore installation used for the transfer or storage of oil when such installation is in Papua New Guinea waters, and the owner, operator and person in charge of any Papua New Guinea offshore installation used for the transfer or storage of oil anywhere, shall ensure that the offshore installation complies with the provisions of Subsections (1) and (2), as far as applicable and with any necessary modifications.</p> <p>(10) The Authority or an Inspector appointed under Section 57 of this Act may;</p> <p>(a) inspect the Oil Record Book on board any vessel or</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>offshore installation to which this Section applies while the vessel is in a Papua New Guinea port or terminal or the offshore installation is in Papua New Guinea waters; and</p> <p>(b) make a copy of any entry in that book, and require the master of the vessel or the person in charge of the offshore installation to certify that the copy is a true copy of such an entry.</p> <p>(11) Any copy made under Subparagraph (10)(b), which has been certified by the master of the vessel or the person in charge of the offshore installation as a true copy of an entry in the Oil Record Book, shall be admissible in any judicial proceedings as evidence of the facts stated in the entry.</p> <p>(12) The inspection of an Oil Record Book and the taking of a certified copy by the Authority under Subsection (10) shall be performed as expeditiously as possible without causing the vessel to be unduly delayed.</p> <p>(13) If any vessel or offshore installation to which this Section applies fails to comply with any provision of this Section;</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel; or</p> <p style="padding-left: 40px;">(c) the owner, operator and the person in charge of the offshore installation;</p> <p>each commit an offence and are each liable upon conviction to a fine not exceeding <b>K10,000</b>.</p> <p>(14) Any 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 <b>K25,000</b>.</p>	
<p><b>11. Surveys and inspections</b></p> <p>(1) Every Papua New Guinea oil tanker of gross tonnage 150 and</p>	<p>All of this Section adapted from Reg 4 of Annex I to MARPOL</p>

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<p>above, and every other Papua New Guinea vessel of gross tonnage 400 and above, shall be subject to the following surveys:</p> <p>(a) an initial survey before the vessel is put into service or before the Certificate required under Section 12 is issued for the first time, so as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the requirements of Section 8 that are applicable;</p> <p>(b) annual or biennial surveys, at the Authority's discretion, to assess:</p> <p style="padding-left: 40px;">(i) whether or not the design, construction, equipment, systems, fittings, arrangements and material fully comply with the requirements of Section 8 as applicable; and</p> <p style="padding-left: 40px;">(ii) whether or not the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, crude oil washing systems, oily-water separating equipment and oil filtering systems, fully comply with the requirements of Section 8 that are applicable, and are in good working order; and</p> <p style="padding-left: 40px;">(iii) the validity or otherwise of the Certificate issued under Section 12.</p> <p>(2) In addition to the surveys required under Subsection (1), the Authority may, at its discretion, also undertake unscheduled inspections of Papua New Guinea vessels to assess compliance with Section 8 as applicable, and to assess the validity or otherwise of the Certificate issued under Section 12 or required under Section 13, and such inspections may also be undertaken of foreign vessels which call at Papua New Guinea ports or terminals, under the Authority's Port State Control powers.</p> <p>(3) Surveys and inspections under this Section shall be carried out by officers of the Authority. The Authority may, however, appoint Approved Organizations and Approved Surveyors to undertake</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>such surveys or inspections on the Authority's behalf, and any Organizations and Surveyors so Approved must meet certain qualifications and criteria, as prescribed.</p> <p>(4) When a survey or inspection carried out under Subsection (1) or (2) determines that the condition of the vessel or its equipment:</p> <ul style="list-style-type: none"> <li>(a) does not comply with the provisions of Section 8; or</li> <li>(b) does not correspond substantially with the particulars of the Certificate issued under Section 12 or required under Section 13; or</li> <li>(c) is such that the vessel is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment;</li> </ul> <p>in the case where the survey or inspection is undertaken by an Approved Organization or Approved Surveyor, the Approved Organization or Approved Surveyor shall report the matter immediately to the Authority, and in all cases the Authority may:</p> <ul style="list-style-type: none"> <li>(a) suspend or withdraw the Certificate issued under section 12; and/or</li> <li>(b) instruct the owner of the vessel to take corrective action; and/or</li> <li>(c) prohibit the vessel from sailing until such corrective action is taken to the satisfaction of the Authority and/or the Certificate issued under Section 12 is re-validated or re-issued.</li> </ul> <p>(5) After any survey of the vessel under Subsection (1) has been completed, no change shall be made to the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the approval of the Authority, except the direct replacement of such equipment and fittings.</p> <p>(6) Whenever an accident occurs to a vessel or a defect is discovered which substantially affects the integrity of the vessel or the</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>efficiency or completeness of its equipment covered by Section 8, the owner or master of the vessel shall report at the earliest opportunity to the Authority, which shall cause investigations to be initiated to determine whether a survey as required by Subsection (1) is necessary. If the vessel is in a port of another State, the master or owner shall also report immediately to the appropriate authorities of the port State.</p> <p>(7) If any vessel to which this Section applies fails to comply with any provisions of this Section;</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K40,000</b>.</p>	
<p><b>12. Issue of International Oil Pollution Prevention (IOPP) Certificate</b></p> <p>(1) An International Oil Pollution Prevention (IOPP) Certificate in the form specified in Regulation 7 of Annex 1 of MARPOL, shall be issued to any Papua New Guinea oil tanker of gross tonnage 150 and above and any other Papua New Guinea vessel of gross tonnage 400 and above, after passing survey in accordance with Section 11.</p> <p>(2) Such Certificate shall be issued either by the Authority or by an Approved Organization only.</p>	<p>All of this Section adapted from Reg 5 of Annex 1 to MARPOL</p>
<p><b>13. Carriage of valid Certificate</b></p> <p>(1) A current and valid IOPP Certificate approved and issued in accordance with Sections 11 and 12 shall be carried by:</p> <p style="padding-left: 40px;">(a) any Papua New Guinea oil tanker of gross tonnage 150 and above; and</p> <p style="padding-left: 40px;">(b) any other Papua New Guinea vessel of gross tonnage 400 and above.</p>	<p>Drafter – to give effect to Reg 5 of Annex 1 to MARPOL</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(2) A current and valid IOPP Certificate in the form specified in Regulation 7 of Annex 1 of MARPOL, issued and approved by the flag State or its approved organization, shall be carried by:</p> <ul style="list-style-type: none"><li>(a) any foreign oil tanker of gross tonnage 150 and above; and</li><li>(b) any other foreign vessel of gross tonnage 400 and above;</li></ul> <p>that enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters.</p> <p>(3) If any vessel to which this Section applies fails to comply with any provisions of this Section:</p> <ul style="list-style-type: none"><li>(a) the owner of the vessel; and</li><li>(b) the master of the vessel;</li></ul> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K40,000</b>.</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p><b>14. Duration of Certificate</b></p> <p>(1) An IOPP Certificate issued under Section 12 shall be issued for a period specified by the Authority, which shall not exceed four years from the date of issue, provided that in the case of an oil tanker operating with dedicated clean ballast tanks for a limited period specified in Regulation 13(9) of Annex I of MARPOL, the period of validity of the certificate shall not exceed such specified period.</p> <p>(2) An IOPP Certificate issued under Section 12 shall cease to be valid if significant alterations have taken place in the construction, equipment, systems, fittings, arrangements or material required without the sanction of the Authority, except the direct replacement of such equipment or fittings, or if intermediate surveys as specified by the Authority under Subparagraph (b) of Subsection 11(1) are not carried out.</p> <p>(3) An IOPP Certificate issued under Section 12 shall also cease to be valid upon transfer of the vessel to the flag of another State or upon change of ownership of the vessel.</p>	<p>Reg 8 of Annex 1 to MARPOL</p>
<p><b>15. Shipboard Oil Pollution Emergency Plan</b></p> <p>(1) A Shipboard Oil Pollution Emergency Plan shall be carried by:</p> <p style="padding-left: 40px;">(a) any Papua New Guinea vessel carrying 400 litres or more of oil as fuel and/or cargo; and</p> <p style="padding-left: 40px;">(b) any foreign oil tanker of gross tonnage 150 and above which operates in Papua New Guinea waters; and</p> <p style="padding-left: 40px;">(c) any other foreign vessel of gross tonnage 400 and above which operates in Papua New Guinea waters.</p> <p>(2) The plans required under Subsection (1) shall be approved by the Authority in the case of a Papua New Guinea vessel and approved by the flag State in the case of a foreign vessel.</p> <p>(3) The plans required under Subsection (1) shall be in accordance with Guidelines developed by the International Maritime Organization and</p>	<p>MARPOL Annex I            Except 400L for PNG vessels (1)(a)            derived from Qld TO(MP) Act</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>written in English and a working language or languages understood by the master and officers of the vessel, and shall consist at least of:</p> <ul style="list-style-type: none"> <li>(a) the procedure to be followed by the master or other persons having charge of the vessel to report an oil pollution incident, as required in Article 8 and Protocol I of MARPOL, based on the Guidelines developed by the International Maritime Organization;</li> <li>(b) the list of authorities or persons to be contacted in the event of an oil pollution incident;</li> <li>(c) a detailed description of the action to be taken immediately by persons on board to reduce or control the discharge of oil following the incident; and</li> <li>(d) the procedures and point of contact on the vessel for coordinating shipboard action with national and local authorities in combating the pollution incident.</li> </ul> <p>(4) In the case of vessels to which Part III also applies, the plan required under Subsection (1) may be combined with the Shipboard Marine Pollution Emergency Plan required by that Part, in which case, the title of such a plan shall be “Shipboard Marine Pollution Emergency Plan”.</p> <p>(5) If any vessel to which this Section applies fails to comply with any provisions of this Section:</p> <ul style="list-style-type: none"> <li>(a) the owner of the vessel; and</li> <li>(b) and the master of the vessel;</li> </ul> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K10,000</b>.</p>	
<b>Part III - Prevention of pollution by noxious liquid substances</b>	
<p><b>16. Purpose and application of this Part</b></p> <p>(1) The purpose of this Part is to give effect to relevant provisions of</p>	Drafter

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
Annex II of MARPOL.  (2) This Part applies to all vessels carrying noxious liquid substances in bulk.	
<p><b>17. Discharge of noxious liquid substances</b></p> <p>(1) The discharge of noxious liquid substances from any vessel is prohibited.</p> <p>(2) If any noxious liquid substances are discharged from any vessel in contravention of the provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel; and</p> <p style="padding-left: 40px;">(c) any other member of the vessel's crew whose act caused or contributed to the discharge, unless the member was complying with an instruction from the master or someone authorised by the master to give the instruction; and/or</p> <p style="padding-left: 40px;">(d) in the case where another vessel caused or contributed to the discharge, such as through collision with the vessel from which the discharge occurred, the owner and master of the other vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000,000</b> or a term of imprisonment not exceeding <b>five</b> years.</p> <p>(3) In the event of a discharge of noxious liquid substances from a vessel the owner of the vessel shall also be subject to the provisions of the <i>Marine Pollution (Liability &amp; Cost Recovery) Act</i>, as applicable.</p> <p>(4) This Section shall not apply to a discharge of noxious liquid substances:</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(b) resulting from damage to a vessel or its equipment; provided</p>	<p style="text-align: center;"><b>The rest of this Part adapted from wording in Annex III to MARPOL</b></p> <p>Penalty applying to crew member adapted from Qld TO(MP) Act</p>

<b>Proposed Text</b> <b>(Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>that:</p> <ul style="list-style-type: none"> <li>(i) all reasonable precautions are taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing, stopping or minimising the discharge; and</li> <li>(ii) the discharge is immediately reported to the Authority in accordance with Section 56;</li> </ul> <p>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 otherwise failed to maintain, manage and/or operate the vessel in a competent and responsible manner.</p>	
<p><b>18. Construction of vessels and pollution prevention equipment</b></p> <p>(1) Any vessel carrying noxious liquid substances in bulk and operating in Papua New Guinea waters shall comply with the construction, pollution prevention equipment and related provisions contained in the following Regulations of Annex II of MARPOL, as applicable:</p> <ul style="list-style-type: none"> <li>(a) Regulation 5A regarding pumping, piping and unloading arrangements; and</li> <li>(b) Regulation 13 regarding requirements for minimizing accidental pollution.</li> </ul> <p>(2) If any vessel to which this Section applies does not comply with any provisions of this Section:</p> <ul style="list-style-type: none"> <li>(a) the owner of the vessel; and</li> <li>(b) the master of the vessel;</li> </ul> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000,000</b> or a term of imprisonment not exceeding <b>five</b> years.</p>	SPREP/SPC Model
<p><b>19. Cargo Record Book</b></p> <p>(1) A Cargo Record Book, whether as part of the vessel's official log book</p>	MARPOL Annex II

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>or otherwise, in the form specified in Appendix IV to Annex III of MARPOL, shall be carried on every vessel to which this Part applies.</p> <p>(2) The master of all vessels referred to in Subsection (1) shall ensure that the Cargo Record Book is maintained and that a record is entered, on a tank-to-tank basis, whenever any of the following operations with respect to a noxious liquid substance take place in the vessel:</p> <ul style="list-style-type: none"> <li>(a) loading of cargo;</li> <li>(b) unloading of cargo;</li> <li>(c) transfer of cargo;</li> <li>(d) transfer of cargo, cargo residues or mixtures containing cargo to a slop tank;</li> <li>(e) cleaning of cargo tanks;</li> <li>(f) transfer from slop tanks;</li> <li>(g) ballasting of cargo tanks;</li> <li>(h) transfer of dirty ballast water; and</li> <li>(i) discharge into the sea.</li> </ul> <p>(3) In the event of any discharge of the kind referred to in Subsection 17(4), whether intentional or accidental, an entry shall be made in the Cargo Record Book stating the circumstances of, and the reason for, the discharge.</p> <p>(4) When a surveyor appointed or authorized by the flag State to supervise any operation under this Part has inspected a vessel, then that surveyor shall make an appropriate entry in the Cargo Record Book.</p> <p>(5) Each operation referred to in Subsections (2) and (3) shall be fully recorded without delay in the Cargo Record Book so that all entries in the Book appropriate to that operation are completed. Each entry</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>shall be signed by the officer or officers in charge of the operation concerned and, when the vessel is manned, each page shall be signed by the Master of the vessel.</p> <p>(6) The entries in the Cargo Record Book shall be in an official language of the State whose flag the vessel is entitled to fly, and, for vessels holding an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in English or French. The entries in an official national language of the State whose flag the vessel is entitled to fly shall prevail in case of a dispute or discrepancy.</p> <p>(7) The Cargo Record Book shall be kept in such a place as to be readily available for inspection and, except in the case of unmanned vessels under tow, shall be kept on board the vessel. It shall be retained for a period of two years after the last entry has been made.</p> <p>(8) The Authority or an Inspector appointed under Section 57 of this Act may:</p> <p style="padding-left: 40px;">(a) inspect the Cargo Record Book on board any vessel to which this Section applies while the vessel is in a Papua New Guinea port or terminal; and</p> <p style="padding-left: 40px;">(b) make a copy of any entry in that book, and require the master of the vessel to certify that the copy is a true copy of such an entry.</p> <p>(9) Any copy made under subparagraph (b) of Subsection (8), which has been certified by the master of the vessel as a true copy of an entry in the Cargo Record Book, shall be admissible in any judicial proceedings as evidence of the facts stated in the entry.</p> <p>(10) The inspection of a Cargo Record Book and the taking of a certified copy by the Authority under Subsection (8) shall be performed as expeditiously as possible without causing the vessel to be unduly delayed.</p> <p>(11) If any vessel to which this Section applies fails to comply with any provision of this Section;</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(a) the owner of the vessel, and</p> <p>(b) the master of the vessel;</p> <p>each commit an offence and are each liable upon conviction a fine not exceeding <b>K10,000</b>.</p> <p>(12) Any 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 <b>K25,000</b>.</p>	
<p><b>20. Surveys and inspections</b></p> <p>(1) Every Papua New Guinea vessel carrying noxious liquid substances in bulk shall be subject to the following surveys</p> <p>(a) an initial survey before the vessel is put into service or before the Certificate required under Sections 21 to 23 is issued for the first time, such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with requirements of Section 18 as applicable;</p> <p>(b) annual or biennial surveys, at the Authority's discretion, to assess:</p> <p style="padding-left: 40px;">(i) whether or not the design, construction, equipment, systems, fittings, arrangements and material fully comply with the requirements of Section 18 as applicable;</p> <p style="padding-left: 40px;">(ii) whether or not the equipment and associated pump and piping systems fully comply with the requirements of Section 18 as applicable, and are in good working order; and</p> <p style="padding-left: 40px;">(iii) the validity or otherwise of the Certificate issued under Section 21.</p> <p>(2) In addition to the surveys required under Subsection (1), the</p>	<p>MARPOL Annex II</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>Authority may, at its discretion, also undertake unscheduled inspections of Papua New Guinea vessels to assess compliance with Section 18 as applicable, and to assess the validity or otherwise of the Certificate issued under Section 21 or required under Section 22, and such inspections may also be undertaken of foreign vessels which call at Papua New Guinea ports or terminals, under the Authority's Port State Control powers.</p> <p>(8) Surveys and inspections under this Section shall be carried out by officers of the Authority. The Authority may, however, appoint Approved Organizations and Approved Surveyors to undertake such surveys or inspections on the Authority's behalf, and any Organizations and Surveyors so Approved must meet certain qualifications and criteria, as prescribed.</p> <p>(3) When a survey or inspection carried out under Subsection (1) or (2) determines that the condition of the vessel or its equipment:</p> <ul style="list-style-type: none"> <li>(a) does not comply with Section 18; or</li> <li>(b) does not correspond substantially with the particulars of the Certificate issued under Section 21 or required under Section 22; or</li> <li>(c) is such that the vessel is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment;</li> </ul> <p>in the case where the survey or inspection is undertaken by an Approved Surveyor or Approved Organization, the Approved Surveyor or Approved Organization shall report the matter immediately to the Authority, and in all cases the Authority may:</p> <ul style="list-style-type: none"> <li>(a) suspend or withdraw the Certificate issued under Section 21; and/or</li> <li>(b) instruct the owner of the vessel to take corrective action; and/or</li> <li>(c) prohibit the vessel from sailing until such corrective action is taken to the satisfaction of the Authority and/or</li> </ul>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p style="text-align: center;">the Certificate issued under Section 21 is re-validated or re-issued.</p> <p>(4) After any survey of the vessel under Subsection (1) has been completed, no change shall be made in the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the sanction of the Authority, except the direct replacement of such equipment and fittings.</p> <p>(5) Whenever an accident occurs to a vessel or a defect is discovered which substantially affects the integrity of the vessel or the efficiency or completeness of its equipment covered by Section 18, the owner or master of the vessel shall report at the earliest opportunity to the Authority, which shall cause investigations to be initiated to determine whether a survey as required by Subsection (1) is necessary. If the vessel is in a port of another State, the master or owner shall also report immediately to the appropriate authorities of the port State.</p> <p>(6) If any vessel to which this Section applies fails to comply with any provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K40,000</b>.</p>	
<p><b>21. Issue of International Pollution Prevention (IPP)Certificate</b></p> <p>(1) An International Pollution Prevention (IPP) Certificate for the Carriage of Noxious Liquid Substances in Bulk, in the form specified in Regulation 11 of Annex II to MARPOL, shall be issued, after passing survey in accordance with Section 20, to any Papua New Guinea vessel carrying noxious liquid substances in bulk.</p> <p>(2) Such Certificate shall be issued either by the Authority or by an Approved Organization only.</p>	MARPOL Annex II
	MARPOL Annex II

<b>Proposed Text</b> <b>(Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p><b>22. Carriage of valid Certificate</b></p> <p>(1) A current and valid IPP Certificate for the Carriage of Noxious Liquid Substances in Bulk, issued and approved in accordance with Sections 20 and 21, shall be carried by any Papua New Guinea vessel carrying noxious liquid substances in bulk.</p> <p>(2) A current and valid IPP Certificate for the Carriage of Noxious Liquid Substances in Bulk, in the form specified in Regulation 11 of Annex II to MARPOL, issued and approved by the flag State or its approved organization, shall be carried by any foreign vessel carrying noxious liquid substances in bulk, which enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters.</p> <p>(3) If any vessel to which this Section applies fails to comply with any provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.</p>	
<p><b>23. Duration of Certificate</b></p> <p>(1) An IPP Certificate issued under Section 21 shall be issued for a period specified by the Authority, which shall not exceed four years from the date of issue.</p> <p>(2) An IPP Certificate issued under Section 21 shall cease to be valid if significant alterations have taken place in the construction, equipment, systems, fittings, arrangements or material required without the sanction of the Authority, except the direct replacement of such equipment or fittings, or if intermediate surveys as specified by the Authority under subparagraph (b) of Subsection 20(1) are not carried out.</p> <p>(3) An IPP Certificate issued under Section 21 shall also cease to be valid upon transfer of the vessel to the flag of another State or upon</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
change of ownership of the vessel.	
<p><b>24. Shipboard Marine Pollution Emergency Plan</b></p> <p>(1) A Shipboard Marine Pollution Emergency Plan shall be carried by any vessel to which this Part applies.</p> <p>(2) The plans required under Subsection (1) shall be approved by the Authority in the case of a Papua New Guinea vessel and approved by the flag State in the case of a foreign vessel.</p> <p>(3) The plans required under Subsection (1) shall be in accordance with Guidelines developed by the International Maritime Organization and written in English and a working language or languages understood by the master and officers of the vessel, and shall consist at least of:</p> <p style="padding-left: 40px;">(a) the procedure to be followed by the master or other persons having charge of the vessel to report an oil pollution incident, as required in Article 8 and Protocol I of MARPOL, based on the Guidelines developed by the International Maritime Organization;</p> <p style="padding-left: 40px;">(b) the list of authorities or persons to be contacted in the event of an oil pollution incident;</p> <p style="padding-left: 40px;">(c) a detailed description of the action to be taken immediately by persons on board to reduce or control the discharge of oil following the incident; and</p> <p style="padding-left: 40px;">(d) the procedures and point of contact on the vessel for coordinating shipboard action with national and local authorities in combating the pollution incident.</p> <p>(4) In the case of vessels to which Part II also applies, the plan required under Subsection (1) may be combined with the Shipboard Oil Pollution Emergency Plan required by that Part, in which case, the title of such a plan shall be “Shipboard Marine Pollution Emergency Plan”.</p> <p>(5) If any vessel to which this Section applies fails to comply with any provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p>	<p>Annex II to MARPOL except 50tons and above limit removed so as to apply to any vessel certified to carry NLS, as in PNG smaller vessels may carry NLS for mines etc</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(b) and the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K10,000</b>.</p>	
<b>Part IV – Prevention of pollution by harmful substances in packaged form</b>	
<p><b>25. Purpose and application of this Part</b></p> <p>(1) The purpose of this Part is to give effect to relevant provisions of Annex III to MARPOL.</p> <p>(2) This Part applies to all vessels carrying harmful substances in packaged form as cargo.</p>	Drafter
<p><b>26. Interpretation</b></p> <p>For the purposes of this Part <b>“discharge”</b> means the jettisoning or throwing overboard of harmful substances in packaged form from a vessel, and includes any loss of harmful substances to Papua New Guinea waters or the sea beyond Papua New Guinea waters caused by leakage of the substance from its package while the package is still on board.</p>	Adapted from MARPOL Annex III – “discharge” replaces “jettison” for ease of comprehension by broader audience
<p><b>27. Discharge of harmful substances</b></p> <p>(1) The discharge of harmful substances from any vessel is prohibited.</p> <p>(2) If any harmful substances is discharged from any vessel:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel; and</p> <p style="padding-left: 40px;">(c) any other member of the vessel’s crew whose act caused or contributed to the discharge, unless the member was complying with an instruction from the master or someone authorised by the master to give the instruction; and/or</p>	MARPOL Annex III

<b>Proposed Text</b> <b>(Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(d) in the case where another vessel caused or contributed to the discharge, such as through collision with the vessel from which the discharge occurred, the owner and master of the other vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000,000</b> or a term of imprisonment not exceeding <b>five</b> years.</p> <p>(3) In the event of a discharge of harmful substances from a vessel the owner of the vessel shall also be subject to the provisions of the <i>Marine Pollution (Liability &amp; Cost Recovery) Act</i>, as applicable.</p> <p>(4) This Section shall not apply to the discharge of harmful substances:</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(b) resulting from damage to a vessel or its equipment; provided that:</p> <p style="padding-left: 80px;">(i) all reasonable precautions are taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing, stopping or minimising the discharge; and</p> <p style="padding-left: 80px;">(ii) the discharge is immediately reported to the Authority in accordance with Section 56;</p> <p>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 otherwise failed to maintain, manage and/or operate the vessel in a competent and responsible manner.</p>	
<p><b>28. Packing, marking, labeling &amp; stowage</b></p> <p>(1) Packages containing harmful substances shall be adequate to minimize the hazard to the marine environment, having regard to their specific contents.</p>	<p>Drafter based on  Regs 2, 3 &amp; 5 of  Annex III to  MARPOL</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(2) Packages containing harmful substances shall be durably marked with the correct technical name (trade names alone shall not be used) and, further, shall be durably marked or labeled “MARINE POLLUTANT”.</p> <p>(3) Such identification shall be supplemented where possible by any other means, for example by use of the relevant United Nations number.</p> <p>(4) The method of marking the correct technical name and of affixing labels on packages containing a harmful substance shall be such that this information will still be identifiable on packages surviving immersion in the sea for at least three months. In considering suitable marking and labeling, account shall be taken of the durability of the materials used and of the surface of the package.</p> <p>(5) Harmful substances shall be properly stowed and secured so as to minimize the hazards to the marine environment without impairing the safety of the vessel and persons on board.</p>	
<p>(6) If a vessel carries harmful substances in packaged form as cargo that are not packed, marked, labeled and stowed as required by this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K250,000</b> or a term of imprisonment not exceeding <b>two</b> years.</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p><b>29. Harmful Substances Manifest and other documentation</b></p> <p>(1) In all documents relating to the carriage of harmful substances by sea where such substances are named, the correct technical name of each such substance shall be used (trade names alone shall not be used) and the substance further identified by the addition of the words “MARINE POLLUTANT”.</p> <p>(2) The shipping documents supplied by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked and labeled as appropriate and in proper condition for carriage to minimize the hazard to the marine environment.</p> <p>(3) Each vessel carrying harmful substances shall have a Harmful Substances Manifest in the form as prescribed, setting forth the harmful substances on board and the location thereof, including a detailed stowage plan which sets out the location of the harmful substances on board. A copy of the Harmful Substances Manifest shall also be retained on shore by the owner of the vessel or his representative until the harmful substances are unloaded, and a copy shall be made available to the Authority or its designated agent forty eight hours prior to the vessel putting to sea.</p> <p>(4) When the vessel carries a special list or manifest or a detailed stowage plan, required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea, 1974, as amended, the documents required by this Section may be combined with those for dangerous goods. Where documents are combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Part.</p> <p>(5) If any vessel to which this Section applies does not comply with any provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K40,000</b>.</p>	<p>Drafter based on  Regs 2 &amp; 3 of  Annex III to  MARPOL</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<b>Part V – Prevention of pollution by sewage</b>	
<p><b>30. Purpose and application of this Part</b></p> <p>(1) The purpose of this Part is to give effect to relevant provisions of Annex IV to MARPOL.</p> <p>(2) This Part applies to all vessels of 400 gross tonnage and above and all vessels less than 400 gross tonnage which are certified to carry 15 persons or more and Section 33 applies to all vessels of any size.</p>	
<p><b>31. Entry into force of this Part</b></p> <p>This Part shall enter into force two years from the date that this Act is enacted.</p>	
<p><b>32. Discharge of sewage</b></p> <p>(1) The discharge of sewage from vessels to which this Part applies is prohibited except when:</p> <p style="padding-left: 40px;">(a) the vessel has in operation an approved sewage treatment plant which has been certified by the Authority to meet the operational requirements of Regulation 9.1.1 of Annex IV of MARPOL, and the effluent has passed through the plant and shall not produce visible floating solids nor cause discoloration of the surrounding water; or</p> <p style="padding-left: 40px;">(b) the vessel is more than 3 nautical miles from the nearest land and the sewage is comminuted and disinfected using a system approved by the Authority in accordance with Regulation 9.1.2 of Annex IV to MARPOL; or</p> <p style="padding-left: 40px;">(c) the sewage is not treated or comminuted or disinfected and the vessel is more than 12 nautical miles from the nearest land, provided that in any case, any sewage that has been stored in holding tanks shall not be discharged instantaneously, but at a moderate rate when the vessel is en route and proceeding at not less than 4 knots; or</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(d) the discharge of sewage is necessary for the purpose of securing the safety of a vessel and those on board or saving life at sea; or</p> <p>(e) the discharge of sewage resulted from damage to the vessel or its equipment and all reasonable precautions were taken before and after the occurrence of the damage, for the purpose of preventing or minimizing the discharge.</p> <p>(2) If any sewage is discharged from any vessel in contravention of the provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel; and</p> <p style="padding-left: 40px;">(c) any other member of the vessel's crew whose act caused or contributed to the discharge, unless the member was complying with an instruction from the master or someone authorised by the master to give the instruction;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K20,000</b>.</p>	
<p><b>33. Vessels in ports and marinas</b></p> <p>(1) The discharge of sewage from any vessel while alongside a wharf or jetty or moored or anchored in a port or marina, is prohibited, and vessels in ports and marinas shall have appropriate arrangements such as holding tanks, shore pump-out arrangements or chemical toilets to ensure compliance with this Section.</p> <p>(2) If any sewage is discharged from any vessel in contravention of the provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel; and</p> <p style="padding-left: 40px;">(c) any other member of the vessel's crew whose act caused or contributed to the discharge, unless the member was complying with an instruction from the master or someone authorised by</p>	Drafter

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p style="text-align: center;">the master to give the instruction;</p> <p style="text-align: center;">each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K20,000</b>.</p>	
<b>Part VI – Prevention of pollution by garbage</b>	
<b>34. Purpose and application of this Part</b>	
(1) The purpose of this Part is to give effect to relevant provisions of Annex V to MARPOL.	
(2) This Part applies to all vessels except as otherwise provided in Sections 36 to 38.	
<b>35. Discharge of garbage</b>	
(1) The discharge of plastics in any form from any vessel is prohibited.	Drafter (implements Annex V of MARPOL)
(2) The discharge of fishing gear in any form, including synthetic nets and lines, from any vessel is prohibited.	Drafter to give emphasis to this major problem
(3) The discharge of dunnage and cargo lining and packing materials from any vessel is prohibited.	Stronger than MARPOL which allows beyond 25NM.
(4) The discharge of all other garbage including food wastes, paper products, rags, glass, metal, bottles, crockery and similar refuse from any vessel is prohibited if the distance from the nearest land is less than 12 nautical miles.	Drafter (implements Annex V of MARPOL)
(5) If any garbage is discharged from any vessel in contravention of the provisions of this Section:	
(a) the owner of the vessel; and	
(b) the master of the vessel; and	
(c) any other member of the vessel's crew whose act caused or contributed to the discharge, unless the member was complying with an instruction from the master or someone authorised by the master to give the instruction;	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>each commit an offence and shall each be liable upon conviction to a fine not exceeding K1,000,000 or a term of imprisonment not exceeding five years.</p> <p>(6) This Section shall not apply to a discharge of garbage:</p> <p style="padding-left: 40px;">(a) necessary for the purpose of securing the safety of a vessel or saving life at sea, providing that the discharge or disposal into the sea was necessary and reasonable in the circumstances; or</p> <p style="padding-left: 40px;">(b) resulting from damage to a vessel or its equipment; provided that:</p> <p style="padding-left: 80px;">(i) all reasonable precautions are taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing, stopping or minimising the discharge; and</p> <p style="padding-left: 80px;">(ii) the discharge is immediately reported to the Authority in accordance with Section 56;</p> <p style="padding-left: 40px;">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 otherwise failed to maintain, manage and/or operate the vessel in a competent and responsible manner.</p> <p>(7) This Section shall not apply in the case of the <i>accidental loss</i> of fishing gear from a vessel, provided that:</p> <p style="padding-left: 40px;">(a) all reasonable precautions are taken by the owner and master of the vessel to prevent such accidental loss; and</p> <p style="padding-left: 40px;">(b) all reasonable actions are taken by the owner and master of the vessel to find and recover any fishing gear so lost; and</p> <p style="padding-left: 40px;">(c) the loss is reported to the Authority as soon as practicable in accordance with Section 56, including reporting the location where the loss occurred.</p>	
<p><b>36. Notices</b></p> <p>(1) Any vessel of 12 metres or more in length overall shall display</p>	<p>Drafter (derived from Reg 9 of Annex V of MARPOL)</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>notices in highly visible locations, and where relevant to the vessel, at least in the:</p> <ul style="list-style-type: none"> <li>(a) wheel-house;</li> <li>(b) galley;</li> <li>(c) dining area; and</li> <li>(d) accommodation area;</li> </ul> <p>which notify the crew and passengers, in clear and simple terms, of the requirements of Subsections 35 (1) to (6) as applicable.</p> <p>(2) Such notices shall be in a format as approved by the Authority from time to time and shall be written in English and the working language of the crew of the vessel.</p> <p>(3) If any vessel to which this Section applies does not comply with any provision of this Section:</p> <ul style="list-style-type: none"> <li>(a) the owner of the vessel; and</li> <li>(b) the master of the vessel;</li> </ul> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000</b>.</p>	
<p><b>37. Garbage Management Plan</b></p> <p>(1) A Garbage Management Plan which the crew shall follow shall be carried by:</p> <ul style="list-style-type: none"> <li>(a) any Papua New Guinea vessel of 400 tons gross tonnage and above; and</li> <li>(b) any Papua New Guinea vessel which is certified to carry 15 persons or more; and</li> <li>(c) any foreign vessel of 400 tons gross tonnage and above that enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters; and</li> </ul>	<p>Drafter          (derived from Reg 9          of Annex V of          MARPOL)          (offshore installation          added)</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(d) any foreign vessel which is certified to carry 15 persons or more that enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters; and</p> <p>(e) any offshore installation that accommodates 5 persons or more for more than 24 hours when such installation is in Papua New Guinea waters.</p> <p>(2) The plan required by Subsection (1) shall provide written procedures for collecting, storing, processing and disposing of garbage, including the use of the equipment on board. It shall also designate the person in charge of carrying out the plan. Such a plan shall be in accordance with the guidelines developed by the International Maritime Organization and written in English and the working language of the crew.</p> <p>(3) If any vessel or offshore installation to which this Section applies does not comply with any provision of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel; or</p> <p style="padding-left: 40px;">(c) the owner, the operator and the person in charge of the offshore installation;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K20,000</b>.</p>	
<p><b>38. Garbage Record Book</b></p> <p>(1) A Garbage Record Book, whether as a part of the vessel's official log-book or otherwise, in the form specified in the appendix to Annex V of MARPOL, as prescribed, shall be carried by:</p> <p style="padding-left: 40px;">(a) any Papua New Guinea vessel of 400 tons gross tonnage and above; and</p> <p style="padding-left: 40px;">(b) any Papua New Guinea vessel which is certified to carry 15 persons or more;</p> <p>engaged in voyages to ports or terminals under the jurisdiction of</p>	<p>Drafter (derived from Reg 9 of Annex V of MARPOL)</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>another State; and</p> <p style="padding-left: 40px;">(c) any foreign vessel of 400 tons gross tonnage and above; and</p> <p style="padding-left: 40px;">(d) any foreign vessel which is certified to carry 15 persons;</p> <p>which enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters.</p> <p>(2) The master of all vessels referred to Subsection (1) shall ensure that the Garbage Record Book is maintained and that a record is entered whenever a discharge or incineration of garbage occurs in accordance with Regulation 9 of Annex V of MARPOL.</p> <p>(3) The Garbage Record Book shall be kept on board the vessel and in such a place as to be available for inspection in a reasonable time and shall be preserved for a period of two years after the last entry is made on the record.</p> <p>(4) The owner, operator and person in charge of an offshore installation that accommodates 5 persons or more for more than 24 hours when such installation is in Papua New Guinea waters, shall ensure that the offshore installation complies with the provisions of Subsections (1) to (3), as far as relevant and with any necessary modifications.</p> <p>(5) The Authority or an Inspector appointed under Section 57 may:</p> <p style="padding-left: 40px;">(a) inspect the Garbage Record Book on board any vessel or offshore installation to which this regulation applies while the vessel is in a Papua New Guinea port or terminal or the offshore installation is in Papua New Guinea waters; and</p> <p style="padding-left: 40px;">(b) make a copy of any entry in that book, and may require the master of the vessel or person in charge of the offshore installation to certify that the copy is a true copy of such an entry.</p> <p>(6) Any copy so made, which has been certified by the master of the vessel or person in charge of the offshore installation as a true copy of an entry in the Garbage Record Book, shall be admissible in any</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>judicial proceedings as evidence of the facts stated in the entry.</p> <p>(7) The inspection of a Garbage Record Book and the taking of a certified copy by the Authority under Subparagraph (b) of Subsection (5) shall be performed as expeditiously as possible without causing the vessel to be unduly delayed.</p> <p>(8) If any vessel or offshore installation to which this Section applies fails to comply with any provision of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel; or</p> <p style="padding-left: 40px;">(c) the owner, the operator and the person in charge of the offshore installation;</p> <p>each commit an offence and are each liable upon conviction a fine not exceeding K10,000.</p> <p>(9) Any 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 K25,000.</p>	
<b>Part VII – Prevention of pollution by antifouling systems</b>	
<p><b>39. Purpose and application of this Part</b></p> <p>(1) The purpose of this Part is to give effect to the AFS Convention.</p> <p>(2) This part applies to all vessels except as otherwise provided in Section 43.</p>	Drafter
<p><b>40. Entry into force of this Part</b></p> <p>This Part shall enter into force two years from the date that this Act is enacted.</p>	
<p><b>41. Controls on anti-fouling systems</b></p>	Drafter based on Article 4 of AFS

<b>Proposed Text</b> <b>(Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(1) The application, re-application, installation or use of antifouling systems containing organotin compounds that act as biocides is prohibited on:</p> <ul style="list-style-type: none"> <li>(a) any Papua New Guinea vessel;</li> <li>(b) any vessel constructed in a Papua New Guinea ship-building facility;</li> <li>(c) any vessel that enters a port, terminal or ship-repair facility of Papua New Guinea; and</li> <li>(d) any offshore installation and other man-made structure including any platform, buoy, marker, beacon, pile or any object specifically created for use or placement on or in Papua New Guinea waters.</li> </ul>	<p>Convention with addition of 'man-made' structures</p>
<p>(2) The application, re-application, installation or use of harmful antifouling systems which are controlled by an amendment to Annex 1 of the AFS Convention is prohibited on:</p> <ul style="list-style-type: none"> <li>(a) any Papua New Guinea vessel;</li> <li>(b) any vessel constructed in a Papua New Guinea ship-building facility;</li> <li>(c) any vessel that enters a port, terminal or ship-repair facility of Papua New Guinea; and</li> <li>(d) any offshore installation and other man-made structure including any platform, buoy, marker, beacon, pile or any object specifically created for use or placement on or in Papua New Guinea waters.</li> </ul> <p>except that vessels bearing such an antifouling system at the time of any such amendment to Annex 1 of the AFS Convention, may retain the system until the next scheduled renewal of that system, but in no event for a period exceeding 60 months following application.</p>	<p>Drafter based on Article 4 of AFS Convention with addition of 'man-made' structures</p>
<p>(3) If any vessel, offshore installation or other man-made structure including any platform, buoy, marker, beacon, pile or any object specifically created for use or placement on or in Papua New Guinea waters fails to comply with the provisions of Subsections (1) and (2);</p>	<p>Drafter based on similar clauses in other parts.</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(a) the owner of the vessel, and</p> <p>(b) the master of the vessel, or</p> <p>(c) the owner, the operator and the person in charge of the offshore installation or other man-made structure,</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000,000</b> or a term of imprisonment not exceeding <b>five</b> years.</p>	
<p><b>42. Surveys, AFS Certificate and AFS Declaration</b></p> <p>(1) Any vessel of gross tonnage 400 and above referred to in Subsections 40(1) and 40(2) and engaged in international voyages, excluding offshore installations, FSUs and FPSOs, shall be subject to:</p> <p style="padding-left: 40px;">(a) an initial survey before the vessel is put into service or before the AFS Certificate required under Subsection (3) is issued for the first time; and</p> <p style="padding-left: 40px;">(b) a survey when the anti-fouling systems are changed or replaced, with such surveys endorsed on the AFS Certificate issued under Subsection (3).</p> <p>(2) The survey shall be such as to ensure that the vessels' anti-fouling system complies fully with this Part and the AFS Convention.</p> <p>(3) Any vessel to which Subsection (1) applies shall carry a valid AFS Certificate issued by the Authority or by an Approved Organization, or by the flag State or its approved organization. Such Certificate shall be in the form given in Appendix 1 to Annex 4 of the AFS Convention.</p> <p>(4) Any vessel of 24 metres or more in length but less than 400 gross tonnage, engaged in international voyages and operating in Papua New Guinea waters, shall carry an AFS Declaration, signed by the owner or owner's authorised agent. Such Declaration shall be the form given in Appendix 2 to Annex 4 of the AFS Convention, and shall be accompanied by appropriate documentation to verify its contents including a paint receipt or contractor invoice.</p>	<p>Drafter base don Annex 4 of AFS Convention</p>

<b>Proposed Text</b> <b>(Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(4) If any vessel to which this Section applies fails to comply with the provisions of this Section:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p> <p style="padding-left: 40px;">(b) the master of the vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.</p>	<p>Drafter based on similar clauses in other parts.</p>
<b>Part VIII - Prevention of pollution from offshore installations</b>	
<p><b>43. Purpose and application of this Part</b></p> <p>The purpose of this Part is to prohibit or control the discharge of pollutants from offshore installations and it applies to any offshore installation in Papua New Guinea waters and any Papua New Guinea offshore installation anywhere.</p>	<p>Drafter</p>
<p><b>44. Discharge of pollutants</b></p> <p>(1) The discharge of oil, noxious liquid substances, harmful substances, garbage or other pollutants from any offshore installation is prohibited, except sewage as provided for in Subsection (2).</p> <p>(2) The discharge of sewage from any offshore installation is prohibited except when the offshore installation has in operation an approved sewage treatment plant which has been certified by the Authority to meet the operational requirements referred to in Regulation 9.1.1 of Annex IV of MARPOL, and the sewage has been treated by that plant prior to discharge and the effluent shall not produce visible floating solids nor cause discoloration of the surrounding water.</p> <p>(3) If any oil, noxious liquid substances, harmful substances, garbage or other pollutant, except sewage as provided for in Subsection (2), is discharged from any offshore installation:</p> <p style="padding-left: 40px;">(a) the owner, operator and person in charge of the offshore installation; and</p> <p style="padding-left: 40px;">(b) any other member of the offshore installation's crew whose act</p>	<p>Drafter</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>caused or contributed to the discharge, unless the member was complying with an instruction from the person in charge or someone authorised by the person in charge to give the instruction; and/or</p> <p>(c) in the case where another vessel caused or contributed to the discharge, such as through collision with the offshore installation from which the discharge occurred, the owner and master of the other vessel;</p> <p>each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K1,000,000</b> or a term of imprisonment not exceeding <b>five</b> years.</p> <p>(4) In the event of a discharge of oil or other pollutants from an offshore installation the owner of the offshore installation shall also be subject to the provisions of the <i>Marine Pollution (Liability &amp; Cost Recovery) Act</i>, as applicable.</p> <p>(5) If any sewage is discharged from any offshore installation in contravention of Subsection (2), the owner, the operator and the person in charge of the offshore installation each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K20,000</b>.</p> <p>(6) This Section shall not apply to a discharge of any pollutant:</p> <p style="padding-left: 40px;">(a) necessary for the purpose of securing the safety of the offshore installation or saving life at sea, providing that the discharge was necessary and reasonable in the circumstances; or</p> <p style="padding-left: 40px;">(b) resulting from damage to an offshore installation or its equipment; provided that;</p> <p style="padding-left: 80px;">(i) all reasonable precautions are taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing, stopping or minimising the discharge; and</p> <p style="padding-left: 80px;">(ii) the discharge is immediately reported to the Authority in accordance with Section 56;</p>	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>except if the owner or operator or the person in charge of the offshore installation acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result, or otherwise failed to maintain, manage and/or operate the offshore installation in a competent and responsible manner.</p>	
<p><b>45. Discharge prevention and containment plans</b></p> <p>(1) The owner or operator of an offshore installation shall prepare, implement and maintain a discharge prevention and containment plan for the offshore installation which details the measures that are in place to prevent the occurrence of discharges from the offshore installation.</p> <p>(2) The plans required to be developed under Subsection (1) shall be submitted to the Authority for approval.</p> <p>(3) The owner and operator and person in charge of an offshore installation which breaches this Section each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.</p>	<p>Drafter</p>
<p><b>46. Notices, record books and management plans</b></p> <p>(1) Any offshore installation that accommodates 5 persons or more for more than 24 hours shall display notices in highly visible locations which notify the crew and any other personnel onboard, in clear and simple terms, of the requirements of Subsections 44(1) and 44(3) as applicable.</p> <p>(2) Such notices shall be in a format as approved by the Authority from time to time and shall be written in English and the working language of the crew of the offshore installation.</p> <p>(3) The owner or operator of any offshore installation shall prepare, implement and maintain an Oil Record Book as required under Section 10, a Garbage Management Plan as required under Section 37 and a Garbage Record Book as required under Section 38, as applicable.</p> <p>(4) The owner, occupier or operator of an offshore installation which breaches this Section commits an offence and shall be liable upon conviction to the same penalties specified in Sections 10, 37 and 38 as applicable.</p>	<p>Drafter. Subsection (3) required by relevant Annexes of MARPOL.</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p><b>47. Antifouling systems</b></p> <p>All offshore to which this Part applies shall comply with Part VII.</p>	
<b>Part IX - Waste reception facilities</b>	
<p><b>48. Purpose and application of this Part</b></p> <p>(1) The purpose of this Part is to give effect to the provisions relating to ships' waste reception facilities as contained in Annexes 1, II, IV and V to MARPOL.</p> <p>(2) This Part applies to all port facilities in Papua New Guinea.</p>	Drafetr
<p><b>49. Interpretation</b></p> <p>For the purposes of this Part:</p> <p><b>“port facility”</b> means any place where vessels regularly moor at a wharf, jetty or other facility for the purposes of loading or unloading passengers and/or cargo or for refuelling or provisioning; and</p> <p><b>“reception facility”</b> means a facility, system, arrangement or method for receiving and responsibly managing waste oil, noxious liquid substances, sewage and garbage including waste fishing gear from vessels that use a port facility; and “waste reception facilities and “ships’ waste reception facilities” have the same meaning.</p>	Drafter
<p><b>50. Port facilities to provide waste reception facilities</b></p> <p>(1) The owner or operator of any port facility in Papua New Guinea shall from time to time and not less frequently than triennially, undertake an assessment of the demand for reception facilities for;</p> <p style="padding-left: 40px;">(a) waste oil;</p> <p style="padding-left: 40px;">(b) noxious liquid substances;</p> <p style="padding-left: 40px;">(c) sewage; and</p> <p style="padding-left: 40px;">(d) garbage, including waste fishing gear;</p>	<p>Drafter (to implement Reg 12 of MARPOL Annex 1 – Oil; Reg 7 of MARPOL Annex 2 – NLS; Reg 12 of MARPOL Annex IV – Sewage and Reg 7 of MARPOL Annex V - Garbage)</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>from all vessels that use the port facility.</p> <p>(2) The owner or operator of any port facility in Papua New Guinea shall, if required as indicated by the assessment of demand undertaken under Subsection (1), provide waste reception facilities at the port facility that are adequate to meet the demand for such reception facilities, for the types and volumes of wastes as indicated by the assessment; and the determination of 'adequate' shall be based on guidelines issued by the International Maritime Organization at the time.</p> <p>(3) Where there are a number of port facilities located within a broader port area, the owners or operators of each port facility may cooperate:</p> <p style="padding-left: 40px;">(a) in undertaking joint assessments of the demand for reception facilities; and</p> <p style="padding-left: 40px;">(b) in providing joint reception facilities under an integrated waste management plan for the whole port area;</p> <p>whereunder the owner or operator of each individual port facility shall be responsible for the costs of each element relating to their port facility.</p> <p>(4) In a case where Subsection (3) applies, and where there exists an organization which has overall responsibility for administering the broader port area, such as port authority or corporation, such organization shall coordinate the joint assessments of demand and the development and implementation of the integrated waste management plan for the whole port area.</p>	
<p><b>51. Recovery of costs &amp; Waste Reception Levies</b></p> <p>(1) Subject to Subsections (2) and (3), the costs of undertaking the assessment of demand required under Subsection 50(1) and of providing and operating any reception facilities required under Subsection 50(2) shall be met by the owner or operator of the port facility.</p> <p>(2) Costs incurred by owners or operators of port facilities under Subsection (1) may be recovered by a Waste Reception Levy on vessels that use the port facilities, as prescribed.</p>	<p>Drafter. Consistent with best practice to encourage use of the facilities. If levy is charged per each use then use will be discouraged and discharge at sea will continue.</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(3) Waste Reception Levies shall be prescribed per port facility at a level no higher than is necessary to cover the costs incurred under Subsection (1), and shall be charged per port entry by vessels, and not per each use of the reception facilities.</p> <p>(4) Waste Reception Levies may be collected by the Authority or the owner or operator of each port facility, as prescribed.</p>	
<p><b>52. Responsible waste management</b></p> <p>The owner or operator of any port facility which provides and operates waste reception facilities, shall ensure that all ships' waste collected at the reception facilities is re-used, recycled and/or disposed of in an environmentally responsible manner, and in accordance with the <i>Environment Act</i> and any applicable Government, Provincial and Municipal waste management policies and plans.</p>	<p>Drafter. Consistent with best practice to ensure that ships' waste that is collected is not then disposed of on land in a manner to cause adverse environmental impacts.</p>
<p><b>53. Quarantine wastes</b></p> <p>Where wastes are received from vessels that have arrived from a State other than Papua New Guinea, the owner or operator of the port facility shall liaise with the National Quarantine and Inspection Authority or its equivalent at the time and ensure that such wastes are managed in accordance with the <i>Quarantine Act</i>.</p>	<p>Drafter</p>
<p><b>54. Offences</b></p> <p>The owner and operator of any port facility that fails to comply with this Section each commit an offence and shall each be liable upon conviction to a fine not exceeding <b>K500,000</b>.</p>	<p>Drafter</p>
<p><b>Part X - Miscellaneous, administration and enforcement</b></p>	<p>SPREP/SPC Model</p>
<p><b>55. Administration and enforcement</b></p> <p>The Authority has primary responsibility for the administration and enforcement of this Act; and any person appointed as an Inspector under this Act in accordance with Section 57 may undertake an investigation in relation to an alleged offence under this Part, under</p>	<p>Drafter</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
the supervision of the Authority.	
<p><b>56. Duty to report discharges</b></p> <p>(1) If any:</p> <ul style="list-style-type: none"> <li>(a) oil; oily mixtures or oil residues;</li> <li>(b) noxious liquid substance;</li> <li>(c) harmful substance, in packaged form or otherwise;</li> <li>(d) garbage, including fishing gear; or</li> <li>(e) any other pollutant;</li> </ul> <p>is discharged from any vessel or offshore installation in Papua New Guinea waters or from any Papua New Guinea vessel or offshore installation anywhere; the owner, master or person in charge of the vessel or offshore installation shall immediately and by the quickest available means report the incident to the Authority; in accordance with the standard Pollution Report (POLREP) format contained in Schedule 1.</p> <p>(2) Any person who:</p> <ul style="list-style-type: none"> <li>(a) fails to reasonably comply with any provision of Subsection (1); or</li> <li>(b) makes a report containing any information that to his or her knowledge is false or misleading;</li> </ul> <p>commits an offence and is liable upon conviction to a fine not exceeding K25,000.</p>	SPREP/SPC Model
<p><b>57. Appointment of inspectors</b></p> <p>(1) The General Manager of the Authority may, by notice in the National Gazette, appoint any officer of the Authority, the National Fisheries Authority, the Department of Environment and Conservation or their equivalents at the time or any other Government officer as an inspector under this Act.</p>	Adapted from Aus EP(SD) Act

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(2) Members of the Royal Papua New Guinea Constabulary are inspectors by force of this Subsection.</p> <p>(3) The Authority shall ensure that all persons that are appointed as inspectors receive proper and regular training in order to assist them to carry out their duties and functions in a competent and responsible manner.</p> <p>(4) Inspectors other than a member of the Constabulary will be issued with an identity card by the Authority in a form approved by the Authority.</p> <p>(5) Where a person in possession of an identity card issued to him under Subsection (4) ceases to be an inspector, he shall forthwith return the identity card to the Authority.</p> <p>(6) Any person who fails to comply with Subsection (5) commits an offence and is liable upon conviction to a fine not exceeding <b>K1,000</b>.</p>	
<p><b>58. Boarding of vessels etc by inspectors</b></p> <p>(1) An inspector may, with such assistance as he or she thinks necessary, board any vessel or offshore installation in Papua New Guinea waters or any Papua New Guinea vessel or offshore installation:</p> <p style="padding-left: 40px;">(a) for the purposes of exercising the functions of an inspector in accordance with Section 60; or</p> <p style="padding-left: 40px;">(b) if he or she believes on reasonable grounds that there is in or on that vessel or offshore installation, any matter or thing that may afford evidence as to the commission of an offence against this Act;</p> <p>and may for that purpose, stop and detain that vessel or stop the operation of the offshore installation.</p> <p>(2) An inspector may require any person on board a vessel or offshore installation to which this Section applies whom the inspector finds committing, or whom the inspector suspects on reasonable grounds of having committed, an offence against this Act to state his or her full name and usual place of residence.</p> <p>(3) Where an inspector believes on reasonable grounds that a vessel to which this Section applies and that is in Papua New Guinea waters</p>	<p>Adapted from Aus EP(SD) Act</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>has been used or otherwise involved in the commission of an offence against this Act, the inspector may bring, or require the person in charge of the vessel to bring, the vessel to the nearest port in Papua New Guinea to which it is safe and practicable to bring the vessel.</p> <p>(4) An inspector may, for the purposes of this Act, require the person in charge of a vessel or offshore installation to which this Section applies, to give information concerning the vessel or offshore installation and its crew and any other person on board the vessel or offshore installation.</p> <p>(5) Where an inspector boards a vessel or offshore installation to which this Section applies, or makes a requirement of a person under this Section, the inspector shall:</p> <p style="padding-left: 40px;">(a) in the case of a member of the Constabulary - produce, for inspection by the person in charge of that vessel, aircraft or platform, official identification as a member of the Constabulary; or</p> <p style="padding-left: 40px;">(b) in any other case - produce his or her identity card for inspection by that person;</p> <p>and, if the inspector fails to do so, he or she is not authorized to remain, or to require any person assisting him or her to remain, on board that vessel or offshore installation or to detain that vessel, or to make any requirement of a person.</p> <p>(6) A person who, without reasonable excuse, fails to comply with a requirement made of him or her by an inspector under this Section, is guilty of an offence punishable on conviction by a fine not exceeding <b>K20,000</b>.</p>	
<p><b>59. Access to premises</b></p> <p>(1) An inspector may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an inspector in accordance with Section 60.</p> <p>(2) Where an inspector has reason to believe that there is on premises any matter or thing that may afford evidence as to the commission of an offence against this Act, the inspector may make application to a magistrate for a warrant authorizing the inspector to enter the</p>	<p>Adapted from EP(SD) Act</p>

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>premises for the purpose of exercising the functions of an inspector in accordance with Section 60.</p> <p>(3) If, on an application under Subsection (2), the magistrate is satisfied, by information on oath or affirmation:</p> <p style="padding-left: 40px;">(a) that there is reasonable ground for believing that there is on the premises to which the application relates any matter or thing that may afford evidence as to the commission of an offence against this Act; and</p> <p style="padding-left: 40px;">(b) that the issue of the warrant is reasonably required for the purposes of this Act;</p> <p>the magistrate may grant a warrant authorizing the inspector, with such assistance as the inspector thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an inspector in accordance with Section 60.</p> <p>(4) Where an inspector has entered any premises in pursuance of Subsection (1) or in pursuance of a warrant granted under Subsection (3), he or she may exercise the functions of an inspector in accordance with Section 60.</p>	
<p><b>60. Functions of inspectors</b></p> <p>(1) The functions of an inspector who boards a vessel or offshore installation under Section 58 or enters premises under Section 59 are as follows:</p> <p style="padding-left: 40px;">(a) to assess compliance with this Act;</p> <p style="padding-left: 40px;">(b) to take samples and to search for, and take possession of, any matter or thing that may afford evidence as to the commission of an offence against this Act;</p> <p style="padding-left: 40px;">(c) to search for, inspect, take extracts from and make copies of any document that relates to the requirements of this Act; and</p> <p style="padding-left: 40px;">(d) to undertake Port State Control functions as provided for under MARPOL and the AFS Convention.</p>	<p>Adapted from Aus EP(SD) Act</p>

<b>Proposed Text</b> <b>(Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
(2) For the purposes of carrying out his or her functions under Subsection (1), an inspector may break open any hold or compartment, or any container or other receptacle, on a vessel or offshore installation or on any premises.	
<b>61. Powers of arrest of inspectors</b>	Adapted from Aus EP(SD) Act
(1) An inspector may, without warrant, arrest any person, if the inspector believes on reasonable grounds that the person is committing or has committed an offence against this Act, and where the penalty for that offence includes imprisonment.	
(2) Where an inspector arrests a person under Subsection (1), the inspector shall: <p style="margin-left: 40px;">(a) in the case of a member of the Constabulary - produce, for inspection by the person being arrested, official identification as a member of the Constabulary; or</p> <p style="margin-left: 40px;">(b) in any other case - produce his or her identity card for inspection by that person.</p>	
(3) Where a person is arrested under Subsection (1), an inspector shall forthwith bring the person, or cause him or her to be brought, before a magistrate or other proper authority to be dealt with in accordance with law.	
(4) Nothing in this Section prevents the arrest of a person in accordance with any other law.	
<b>62. Regulations</b>	SPREP/SPC Model (simplified)
The Head of State, acting with and in accordance with the advice of the Authority provided through the Minister, may make Regulations providing for such matters as are necessary for giving full effect to the provisions of this Act and for its due administration.	
<b>63. Offences and penalties</b>	SPREP/SPC Model
(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:	

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p>(a) in the case of a corporation to a fine not exceeding <b>K1,000,000</b> or a term of imprisonment not exceeding <b>five</b> years; and</p> <p>(b) in the case of an individual to a fine not exceeding <b>K250,000</b> or a term of imprisonment not exceeding <b>two</b> years.</p> <p>(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 <b>K1,000</b> for every day during which the offence continues.</p>	
<p><b>64. Recovery of fines by distress</b></p> <p>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 or offshore installation to which this Act applies 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 any vessel, or offshore installation or of any other equipment relating to the offence, as the case requires.</p>	SPREP/SPC Model
<p><b>65. Detention of vessels</b></p> <p>(1) Where the Authority has reasonable cause to believe that a pollutant has been discharged from a vessel into Papua New Guinea waters it may cause the vessel to be detained in Papua New Guinea until the owner or agent of the vessel deposits with the Authority a sum of money, or furnishes such security which would in the opinion of the Authority, subject to the <i>Marine Pollution (Liability &amp; Cost-Recovery) Act</i>, be adequate to meet the owner's liability for the costs of preventing, minimizing and ameliorating any pollution from the discharge.</p> <p>(2) If any vessel is detained under this Section and the vessel proceeds to sea before it is released by the Authority:</p> <p style="padding-left: 40px;">(a) the owner of the vessel; and</p>	PNG PPS Act

<b>Proposed Text (Draft only - subject to consultation)</b>	<b>Source/ Drafter's Notes</b>
<p style="text-align: center;">(b) the master of the vessel;</p> <p style="text-align: center;">each commit an offence and are each liable upon prosecution to a fine not exceeding <b>K1,000,000.</b></p>	
<p><b>66. Time limit for prosecution proceedings</b></p> <p>(1) A proceeding for prosecution for an offence against this Act must start:</p> <p style="padding-left: 40px;">(a) Within two years after the commission of the offence; or</p> <p style="padding-left: 40px;">(b) Within two years after the offence comes to the complainant's knowledge, but within three years after the commission of the offence.</p> <p>(2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.</p>	Qld TOMP Act
<p><b>67. Warships excepted</b></p> <p style="text-align: center;">This Act does not apply to warships of any State.</p>	Drafter
<p><b>68. Acts repealed</b></p> <p style="text-align: center;">The <i>Prevention of Pollution from Ships Act</i> and the <i>Prevention of Pollution from Ships Regulation</i> are repealed.</p>	Drafter

**Schedule 1: Standard Pollution Report (POLREP)**

Pollution Reports made to the Authority in accordance with Section 56 shall report:

- (1) the time of the discharge;
- (2) the position of the discharge, including latitude and longitude, if possible;
- (3) the event to which the discharge is directly attributable;
- (4) the precise source of the discharge;
- (5) the weather and sea conditions at the time of the discharge and at the time when the report was made;
- (6) where oil has been discharged, the quantity and description of each type of oil that was discharged;
- (7) the quantity and description of each type of oil remaining on board (in the case of a vessel) or in storage (in the case of sources other than vessels);
- (8) 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);
- (9) the quantity and description of each type of pollutant other than oil remaining on board (in the case of a vessel) or in storage (in the case of sources other than vessels);
- (10) where garbage or sewage has been discharged, the quantity, description and concentration that was discharged;
- (11) where relevant the types, quantity and condition of the rest of the cargo carried;
- (12) the existence of any slick and the direction and speed of its movement;
- (13) the measures that have been taken :
  - (a) to stop or reduce the discharge;
  - (b) to contain the pollutant and prevent it's spread;
  - (c) to remove the pollutant from the sea or to disperse it; and
  - (d) to minimise damage or the possibility of damage resulting from the discharge; and
- (14) the identity and full contact details of the person making the report.