

INDEPENDENT STATE OF PAPUA NEW GUINEA



Marine Pollution (Liability & Cost Recovery) Regulation

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INDEPENDENT STATE OF PAPUA NEW GUINEA



Marine Pollution (Liability & Cost Recovery) Regulation [insert yr]

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under the *Marine Pollution (Liability & Cost Recovery) Act*.

1. Interpretation

In this Regulation, unless the contrary intention appears:

"92 Civil Liability Convention" means the *Protocol of 1992 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969*; 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 92 CLC Convention;

"92 Fund" means the fund established under the 92 Fund Convention;

"92 Fund Convention" means the *Protocol of 1992 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971*; 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 92 Fund Convention;

"Act" and **"the Act"** mean the *Marine Pollution (Liability & Cost Recovery) Act*;

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

“Contributing Vessel” means any vessel that is able to carry 10 tonnes or more of oil either as fuel or cargo or which is carrying 10 tonnes or more of chemicals and which in either case enters a port or terminal in Papua New Guinea;

“gross tonnage” and **“gross tonne”** mean gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the *International Convention on Tonnage Measurement of Ships, 1969*; and

“POLFUND” means the National Marine Pollution Fund established under Part II of the Act.

2. Marine Pollution Levies

For the purposes of Subsection 10(1) of the Act the Marine Pollution Levy payable by owners of Contributing Vessels is prescribed as follows:

- (a) for Subsection 10(2)(a) of the Act, KX per gross tonne of the vessel per year is prescribed; and
- (b) for Subsection 10(2)(b) of the Act, KX per gross tonne of overall length of the vessel per port or terminal entry is prescribed.

3. International Oil Pollution Insurance Certificate for Tankers

The International Oil Pollution Insurance Certificate for Tankers referred to in Subsections 23(2) and 23(5) of the Act shall be in Form 1 of Schedule 1.

4. International Oil Pollution Insurance Certificate for Bunkers

The International Oil Pollution Insurance Certificate for Bunkers referred to in Subsections 35(2) and 35(5) of the Act shall be in Form 2 of Schedule 1.

5. Levels of Insurance for Wreck Removal and Cleanup Costs

The limits for an insurance policy required under Section 39 of the Act are prescribed as follows:

- (a) for vessels of 24 metres in length to 60 metres in length:
 - (i) for the costs referred to in Subsection 39(1)(a) of the Act, K10,000,000 is prescribed; and
 - (ii) for the costs referred to in Subsection 39(1)(b) of the Act, K250,000 is prescribed.

(b) for vessels greater than 60 metres in length:

(i) for the costs referred to in Subsection 39(1)(a) of the Act, K10,000,000 is prescribed; and

(ii) for the costs referred to in Subsection 39(1)(b) of the Act, K500,000 is prescribed.

6. National Wreck Removal Insurance Certificate

The National Wreck Removal Insurance Certificate referred to in Subsections 39(3) of the Act shall be in Form 3 of Schedule 1.

7. National Marine Pollution Insurance Certificate for Oil or Chemical Handling Facilities

The National Marine Pollution Insurance Certificate for Oil or Chemical Handling Facilities referred to in Subsections 45(2) and 45(3) of the Act shall be in Form 4 of Schedule 1.

8. Recovery of contributions to 92 Fund

For the purposes of Section 58 of the Act, contributions, or late payment penalties, must be paid:

(a) by a cheque for the amount of the contribution or late payment penalty that is drawn in:

(i) Papua New Guinea currency; or

(ii) the currency of the place where the 92 Fund is kept; or

(b) by electronic transmission of the amount of the contribution or late payment penalty in:

(i) Papua New Guinea currency; or

(ii) the currency of the place where the 92 Fund is kept.

9. Record keeping and returns in relation to contributions to 92 Fund

(1) A person referred to in Subsection 50(2) of the Act must keep records for each calendar year:

(a) of the matters; and

(b) in a manner;

that will enable the person to make a return under Subsection 60(1) of the Act.

- (2) A person who is required to keep records must retain the records at the principal place of business of the person in Papua New Guinea for 5 years after the year to which the records relate.

Penalty: K2,000.

- (3) On or before 1 March in a year, a person to whom Subsection (1) applies must give to the Authority a return that relates to the preceding calendar year, in accordance with the Form in Schedule 2. Such return must:

- (a) be signed by the person who makes the return; and
- (b) specify the date on which the return was completed by that person; and
- (c) show the name, and any telex or fax number, of the person.

- (4) The person must:

- (a) make a statutory declaration that the information in the return is complete and correct to the best of the knowledge of the person; and
- (b) include the statutory declaration with the return.

Penalty: K2,000.

- (5) The Authority may require, by notice in writing, a person to:

- (a) produce a document to the Authority; or
- (b) make a copy of a document and give the copy to the Authority; if the document is relevant to ascertaining the liability of a person to make a contribution to the 92 Fund.

- (6) A person must comply with a requirement made in accordance with Subsection (5).

Penalty: K2,000.

Schedule 1 – List and format of Forms

Form 1: International Oil Pollution Insurance Certificate for Tankers

Form 2: International Oil Pollution Insurance Certificate for Bunkers

Form 3: National Wreck Removal Insurance Certificate

Form 4: National Marine Pollution Insurance Certificate for Oil or Chemical Handling
Facilities

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Form 1: International Oil Pollution Insurance Certificate for Tankers

As required by Subsections 23(2) and 23(5) of the
Marine Pollution (Liability & Cost Recovery) Act
in the format specified in the Annex to the 92 Civil Liability Convention (CLC)

**CERTIFICATE OF INSURANCE OR OTHER FINANCIAL
SECURITY IN RESPECT OF CIVIL LIABILITY FOR
OIL POLLUTION DAMAGE**

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Name of ship	Distinctive number of letters	IMO Ship Identification Number	Port of registry	Name and full address of the principal place of business of the registered owner.

This is to certify that there is in force in respect of the above named ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Type of Security:

Duration of Security:

Name of the Insurer(s) and/or Guarantor(s):

Address of the Insurer(s) and/or Guarantor(s):

This certificate is valid until (date):

Issued or certified by the Government of (full designation of the State):

At (place):

On (date):

Signature and Title of issuing or certifying official:

Explanatory Notes:

1 If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.

2 If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.

3 If security is furnished in several forms, these should be enumerated.

4 The entry "Duration of Security" must stipulate the date on which such security takes effect.

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Form 2: International Oil Pollution Insurance Certificate for Bunkers

As required by Subsections 35(2) and 35(5) of the
Marine Pollution (Liability & Cost Recovery) Act
in the format specified in the Annex to the Bunkers Convention

**CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN
RESPECT OF CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE**

Issued in accordance with the provisions of Article 7 of the International Convention on
Civil Liability for Bunker Oil Pollution Damage, 2001

Name of ship	Distinctive number of letters	IMO Ship Identification Number	Port of registry	Name and full address of the principal place of business of the registered owner.

This is to certify that there is in force in respect of the above named ship a policy of insurance or other financial security satisfying the requirements of Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001.

Type of Security:

Duration of Security:

Name and address of the insurer(s) and/or guarantor(s):

Issued or certified by the Government of (full designation of the State):

OR

The following text should be used when a State Party avails itself of Article 7(3) of the Convention.

The present certificate is issued under the authority of the Government (full designation of the State):

by (name of institution or organization):

At (Place):

On (Date):

Signature and Title of issuing or certifying official:

Explanatory Notes:

- 1. If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.*
- 2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.*
- 3. If security is furnished in several forms, these should be enumerated.*
- 4. The entry "Duration of Security" must stipulate the date on which such security takes effect.*
- 5. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.*

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Form 3: National Wreck Removal Insurance Certificate

As required by Subsection 39(3) of the
Marine Pollution (Liability & Cost Recovery) Act

Name of ship	Distinctive number of letters	PNG Registration Number	Port of registry	Name and full address of the principal place of business of the registered owner.

This is to certify that there is in force in respect of the above named ship a policy of insurance or other financial security satisfying the requirements of Section 39 of the *Marine Pollution (Liability & Cost Recovery) Act*

Type of Security:

Duration of Security:

Name and address of the insurer(s) and/or guarantor(s):

Issued or certified by the National Maritime Safety Authority:

At (Place):

On (Date):

Signature and Title of issuing or certifying official:

Explanatory Notes:

- 1. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.*
- 2. If security is furnished in several forms, these should be enumerated.*
- 3. The entry "Duration of Security" must stipulate the date on which such security takes effect.*
- 4. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.*

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Form 4: National Marine Pollution Insurance Certificate for Oil or Chemical Handling Facilities

As required by Subsections 45(2) and 45(3) of the
Marine Pollution (Liability & Cost Recovery) Act

Name of oil or chemical handling facility	Location of oil or chemical handling facility (full street address if land-based. Latitude and longitude if sea-based)	Name and full address of the principal place of business of the registered owner of the oil or chemical handling facility

This is to certify that there is in force in respect of the above named oil or chemical handling facility a policy of insurance or other financial security satisfying the requirements of Subsections 45(2) and 45(3) of the *Marine Pollution (Liability & Cost Recovery) Act*

Type of Security:

Duration of Security:

Name and address of the insurer(s) and/or guarantor(s):

Issued or certified by the National Maritime Safety Authority

At (Place):

On (Date):

Signature and Title of issuing or certifying official:

Explanatory Notes:

- 1. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.*
- 3. If security is furnished in several forms, these should be enumerated.*
- 4. The entry "Duration of Security" must stipulate the date on which such security takes effect.*
- 5. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.*

Schedule 2 – Form of Annual Return in relation to contributions to 92 Fund

CONTRIBUTING OIL RECEIVED IN (insert year of receipt)
for the purposes Article 15.1 of the
International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (92 Fund Convention)

CONTRACTING STATE:

PERSON RECEIVING CONTRIBUTING OIL:

ASSOCIATED PERSONS:

Is the reporting person an "associated person" within the meaning of Article 10 of the 92 Fund Convention?: YES/NO

If yes, name parent company of group:

FULL POSTAL ADDRESS:

Contributing oil (crude oil and fuel oil)		Quantity (tonnes)
Received ²⁻⁶ directly after carriage by sea:		
Received from other States ⁵ :		
Received otherwise ⁶ :		
SUBTOTAL:		
Contributing oil ¹ received ⁵⁻⁸ from a non-Contracting State ⁸ by modes of transport other than carriage by sea:		
State(s) from which received	Mode of Transport	
(add rows as required)		
SUBTOTAL:		
TOTAL QUANTITY OF CONTRIBUTING OIL RECEIVED:		

	For completion by competent officer of company or other body receiving the oil	For completion by certifying officer of the Authority
Name:		
Signature:		
Title:		
Telex/Telefax/Email:		
Date:		

FOR IOPC FUND USE ONLY

Entered

Associated to CTR/

Parent of CTR?

Checked

File : CTR/

FOOTNOTES:

Each of the following directions applies to a matter on the form in which the direction number appears. A return must be completed in accordance with the following directions):

1. The following list gives examples of contributing and non-contributing oils and is not intended to be exhaustive:

Contributing Oil	Non-Contributing Oil
<p>Crude Oils All naturally occurring crude oils Topped crudes Spiked crudes Reconstituted crudes</p> <p>Finished Products No. 4 fuel (ASTM) Navy Special fuel Light fuel oil No. 5 fuel (ASTM) – light Medium fuel oil No. 5 fuel (ASTM) – heavy Bunker C fuel oil Heavy fuel oil Marine fuel oil No. 6 fuel oil (ASTM) Blended fuel oils by viscosity or sulphur content Intermediate or Process Stocks Fuel oil blend stocks Light cracked naphtha Heavy cracked naphtha Platformate Reformate Steam-cracked naphtha Polymers Isomers Alkylates Catalytic cycle oil Reformer feed Steam cracker feed Gas oil blend stocks Catalytic cracker feedstock Visbreaker feedstock Aromatic tar</p>	<p>Crude Oils Natural gas liquids Condensate Casinghead naphtha Natural gasoline</p> <p>Finished Products LNG and LPG Motor gasoline (petrol, essence) White spirit Kerosene - Aviation kerosene - Jet 1 A - No. 1 fuel (ASTM) Gas oil Heating oil No. 2 fuel (ASTM) Marine diesel Lubricating oil Intermediate or Process Stocks Straight run naphthas</p>

FOOTNOTES Continued:

2. Discharge into a floating tank within the territorial waters of a Contracting State (including its ports) constitutes a receipt of oil, irrespective of whether or not the tank is connected with on-shore installations by pipeline. A ship is taken to be a floating tank only if it is of the kind known as a "dead ship", that is, it is not ready to sail.

3. Movement within the same port area is not taken to be carriage by sea.

4. Ship-to-ship transfer is not taken to be receipt unless oil, after having been transferred within a port area from a sea-going vessel to another sea-going vessel:

(a) is carried by the other vessel to an on-shore installation situated on the territory of a Contracting State, in which case receipt in that installation is taken to be receipt of oil carried by sea; or

(b) passes through a storage tank before being loaded to the other vessel, in which case it is taken to be oil received at that tank in the Contracting State in the territory of which the tank is situated.

5. Imports of oil must be entered under "Received from other States" and receipts of oil from other sources must be entered under "Received otherwise".

6. "Received otherwise" includes movements from terminals at sea, from floated storage, from off-shore oil fields by vessel or after coastal movement of the oil within the same Contracting State.

7. "Contracting State" means a State for which the 92 Fund Convention is in force. When completing the report, States for which the 92 Fund Convention enters into force after 31 March of the year when the report is submitted are taken to be non-Contracting States.

8. The report should specify the non-Contracting State from which contributing oil was received and the mode of transport by which received. Only such oil that has at some time been carried by sea should be reported.

9. Quantities of contributing oil must be given in tonnes rounded off to the nearest tonne.