

INDEPENDENT STATE OF PAPUA NEW GUINEA



Marine Pollution (Ships & Installations) Bill

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INDEPENDENT STATE OF PAPUA NEW GUINEA



**A BILL
for an
ACT
entitled**

Marine Pollution (Ships & Installations) Act [insert yr]

Being an Act -

- (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 any Papua New Guinea offshore installation wherever it may be; and
- (b) to incorporate into the law of Papua New Guinea relevant provisions of certain international Conventions relating to marine pollution prevention and control; and
- (c) to repeal the *Prevention of Pollution of the Sea Act* and the *Prevention of Pollution of the Sea Regulation*; and
- (d) to make ancillary and related provisions.

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.

Part I - Preliminary

1. Short title

This Act may be cited as the *Marine Pollution (Ships & Installations) Act*.

2. Application

- (1) Unless expressly provided otherwise, this Act applies to:
 - (a) any Papua New Guinea vessel, wherever it may be;
 - (b) any Papua New Guinea offshore installation, wherever it may be;
 - (c) any vessel in Papua New Guinea waters; and
 - (d) any offshore installation in Papua New Guinea waters.
- (2) This Act applies to the State including any vessel and any offshore installation and any port facility owned or partly owned or chartered or otherwise operated by the National Government or any Provincial Government of Papua New Guinea, except that it does not apply to any vessel or offshore installation of the Papua New Guinea Defence Force in times of war, conflict or emergency only.
- (3) This Act does not apply to any warship, naval auxiliary or other vessel owned or operated by the government of a State other than Papua New Guinea and used, for the time being, only on government non-commercial service.

3. Compliance with constitutional requirements

- (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 *Constitution*, namely:
 - (a) the freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*;
 - (b) the right to privacy conferred by Section 49 of the *Constitution*;
 - (c) the right to freedom of movement conferred by Section 52 of the *Constitution*;
 - (d) the right to compensation conferred by Section 58 of the *Constitution*;

- (e) the protection from unjust deprivation of property conferred by Section 53 of the *Constitution*; and
- (f) the right to freedom of information conferred by Section 51 of the *Constitution*;

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.

- (2) For the purposes of Section 41(2) of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest.
- (3) For the purposes of Section 41(6) of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act is an Act of Parliament on a matter specified in Section 42 or 44 of the *Organic Law on Provincial Governments and Local-level Governments*, and prevails over any law made under Section 42 or 44 to the extent of any inconsistency.

4. Interpretation

In this Act, unless the contrary intention appears:

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

“**anti-fouling system**” 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;

“**Authority**” means the National Maritime Safety Authority established by the *National Maritime Safety Authority Act*;

“**Approved Surveyor**” means an individual approved by the Authority to undertake surveys of ships under Sections 11, 20 and 42.

“**discharge**” means in relation to any pollutant or effluents containing pollutants:

- (a) any release into Papua New Guinea waters from any vessel or any offshore installation; and

- (b) any release into the sea beyond Papua New Guinea waters from any Papua New Guinea vessel or any Papua New Guinea offshore installation;

howsoever caused, and includes any escape, disposal, spilling, leaking, pumping, jettisoning, throwing overboard, emitting or emptying; but does not include:

- (i) any discharge from an offshore installation that is duly authorized under the *Environment Act*; and
- (ii) dumping within the meaning of the London Protocol.

“fishing gear” means any equipment used to catch fish or other marine life including:

- (a) nets, lines, traps and hooks, and

any associated equipment such as;

- (b) ropes, floats, buoys, markers, weights and anchors,

as well as;

- (c) packaging materials for bait and catch,

and includes;

nets, ropes and other equipment made from plastics and other synthetic materials as well as non-synthetic materials;

“FSU” means floating storage unit;

“FSPO” means floating storage, production and offloading unit;

"garbage" means all kinds of victual, domestic and operational waste, including;

- (a) all forms of plastics,

- (b) dunnage,

- (c) cargo-lining and packing material; and

- (d) other waste,

generated during the normal, day-to-day operation of a vessel; as well as;

(e) fishing gear; and

excluding;

(a) oil, noxious liquid substances, harmful substances in packaged form and sewage as defined in this Act; and

(b) fresh fish and parts thereof;

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

“harmful substance” means a substance which is identified as a marine pollutant in the International Maritime Dangerous Goods (IMDG) Code;

“IMDG Code” means the *International Maritime Dangerous Goods Code* published by the International Maritime Organization from time to time;

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

“inspector” means a person appointed as an inspector under Subsection 57(1);

“International Maritime Organization” means the organisation established by the *International Maritime Organization Convention, 1958*;

“London Protocol” means the *1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972* 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;

“marine pollution” means the introduction by humans, directly or indirectly, of substances or energy into Papua New Guinea waters or the sea beyond Papua New Guinea waters; which results or is likely to result in such deleterious effects as harm to living resources and aquatic life, hazards to human health, hindrance to aquatic activities, including fishing and other legitimate uses of the sea or other waters, impairment of quality for use of the sea or any water and reduction of amenities; and “pollution” has a corresponding meaning;

“MARPOL Convention” means the *International Convention for the Prevention of Pollution from Ships, 1973*; 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;

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

"Minister" means the Minister responsible for maritime transport;

"National Government" means the Government of Papua New Guinea;

“nearest land” means the Baseline from which the territorial sea of Papua New Guinea is established as defined in Schedule 1 of the *Maritime Zones Act* [NB if this Bill passed before *Maritime Zones Bill* this will have to be changed to *National Seas Act*]; 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;

"noxious liquid substances" means any substance referred to in Regulation 1.10 of Annex II of MARPOL;

“offshore installation” means any man-made fixed or floating offshore 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, storage and transport;

“oil” 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;

“oil tanker” means a ship constructed or adapted for the carriage of oil in bulk as cargo and includes combination carriers and any chemical tanker as defined in Annex II of MARPOL 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;

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

“owner” means –

in relation to any vessel:

- (a) the registered owner of the vessel if the vessel is registered in Papua New Guinea under the *Merchant Shipping Act* or under any law administered by a Provincial Government;
- (b) the registered owner of the vessel if the vessel is registered in a place outside of Papua New Guinea;
- (c) the person owning the vessel, if the vessel is an unregistered vessel;
- (d) the person or agency registered as the operator of the vessel, if the vessel is owned by the Government;

and includes:

- (e) 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;
- (f) any agent in Papua New Guinea of the owner, charterer, manager, or operator; and

any other person that has an interest in or is 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;

and in relation to any offshore installation:

- (i) 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
- (ii) any person having a right or privilege or license to explore the seabed and subsoil and to exploit the natural resources thereof in connection with which the offshore installation is or has been or is to be used;

and in relation to any port facility the registered owner, lessee or operator of the facility or the registered owner or lessee of the land on which the facility is located;

“packaged form” means a form of containment specified for harmful substances in the IMDG Code;

“**person**” 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;

"**pollutant**" includes oil, oily mixtures, oil residues, noxious liquid substances, harmful substances, sewage and garbage as defined by MARPOL, and any water contaminated by any such substance, and any other substance which added to the sea or any other waters results or is likely to result in such deleterious effects as harm to living resources and aquatic life, hazards to human health, hindrance to aquatic activities, including fishing and other legitimate uses of the sea or any waters, impairment of quality for use of any waters and reduction of amenities; and “pollution” has a corresponding meaning;

“**Papua New Guinea**” means the Independent State of Papua New Guinea;

"**Papua New Guinea offshore installation**" means an offshore installation registered in Papua New Guinea or owned by a Papua New Guinea citizen or owned or partially owned by the National Government and/or Provincial Government(s) or owned by a company, corporation or other entity with its principal office being located in Papua New Guinea;

"**Papua New Guinea vessel**" means a vessel that is:

- (a) registered or required to be registered under the *Merchant Shipping Act* or any law administered by a Provincial Government; or
 - (b) owned or partially owned by either:
 - (i) a citizen of Papua New Guinea; or
 - (ii) a Corporation established under and subject to the laws of Papua New Guinea;
- and is unregistered;

and “Papua New Guinea oil tanker” has a corresponding meaning in relation to an oil tanker.

"**Papua New Guinea waters**" means –

- (a) the internal waters;

- (b) the territorial sea;
- (c) the contiguous zone;
- (d) the archipelagic waters, and
- (e) the exclusive economic zone

of Papua New Guinea as defined in the *Maritime Zones Act* [NB if this Bill passed before *Maritime Zones Bill* this will have to be changed to *National Seas Act*];

“Provincial Government” means any of the governments of the Provinces of Papua New Guinea;

“Recognized Organization” means an organization approved by the Authority to undertake surveys and certifications of ships under Sections 11, 12, 20, 21 and 42;

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

"sewage" in relation to vessels and offshore installations includes;

- (a) drainage and other wastes from any form of toilets, urinals and toilet scuppers;
- (b) drainage from medical premises, including dispensaries and sick bays, by way of wash basins, wash tubs and scuppers located in such premises;
- (c) drainage from spaces containing living animals; and

other waste waters when mixed with the drainage mentioned in the foregoing provisions of this definition;

"ship" means any waterborne 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 method of or lack of propulsion;

“ship building facility” means any place on land, in the inter-tidal zone and in Papua New Guinea waters where vessels are constructed;

“ship repair facility” 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;

“special area” means a sea area where for recognized technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution is required, and which is designated as a special area under Regulation 1.11 of Annex I of MARPOL;

"transfer" 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 or vice versa, or from one offshore installation to another; and

“vessel” has the same meaning as **“ship”**.

5. International Conventions

- (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:
 - (a) AFS Convention; and
 - (b) MARPOL Convention.
- (2) Regulations made under this Act may:
 - (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;
 - (b) make provision for any aspect of the application or enforcement of a Convention to which this Act applies;
 - (c) modify the application of any Convention to which this Act applies to meet the needs and circumstances of Papua New Guinea; and
 - (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 **K1,000,000**, or imprisonment for terms not exceeding **five** years, or both.

- (3) The breach of any obligation or duty arising under a Convention to which this Act applies shall constitute an offence under Section 64.
- (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.

Part II - Prevention of pollution by oil

6. Purpose and application of this Part

- (1) The purpose of this Part is to give effect to relevant provisions of Annex I of MARPOL.
- (2) This Part applies to any vessel in Papua New Guinea waters and any Papua New Guinea vessel wherever it may be, except as otherwise provided.

7. Discharge of oil

- (1) Subject to Subsections (4) to (8) the discharge of oil, oily mixtures or oil residues from any vessel is prohibited.
- (2) If any oil, oily mixture or oil residues are 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; and/or
 - (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;

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.

- (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 *Marine Pollution (Liability & Cost Recovery) Act* as may be applicable.
- (4) This section shall not apply to a discharge of oil, oily mixtures or oil residues:
- (a) necessary for the purpose of securing the safety of a vessel or saving human life, providing that the discharge was necessary and reasonable in the circumstances; or
 - (b) resulting from damage to a vessel or its equipment, provided that:
 - (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
 - (ii) the discharge is immediately reported to the Authority in accordance with Section 56;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
 - (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.
- (5) This section shall not apply to the discharge of oil or oily mixtures from vessels of gross tonnage 400 and above when the vessel is not in a special area if:
- (a) the vessel is underway;
 - (b) the discharge is processed through oil filtering equipment that meets the requirements of Regulation 14 of Annex I of MARPOL,
 - (c) the discharge does not originate from cargo pump-room bilges on oil tankers; and
 - (d) the discharge, in case of oil tankers, is not mixed with oil cargo residues.
- (6) This section shall not apply to the discharge of oil or oily mixtures from vessels of gross tonnage 400 and above when the vessel is in a special area if:
- (a) the vessel is underway;

- (b) the discharge is processed through oil filtering equipment that meets the requirements of Regulation 14.7 of Annex I of MARPOL,
- (c) the oil content of the discharge without dilution does not exceed 15 parts per million;
- (d) the discharge does not originate from cargo pump-room bilges on oil tankers; and
- (e) the discharge in case of oil tankers, is not mixed with oil cargo residues;

except in the Antarctic area south of latitude 60°S where no exceptions to the application of this section apply.

- (7) This section shall not apply to the discharge of oil or oily mixtures from vessels of gross tonnage less than 400 if:
 - (a) the vessel is underway;
 - (b) the discharge is processed through equipment of a design approved by the Authority in the case of Papua New Guinea vessels or approved by the flag State in the case of foreign vessels, that ensures that the oil content of the discharge without dilution does not exceed 15 parts per million;
 - (c) the oil content of the discharge without dilution does not exceed 15 parts per million,
 - (d) the discharge does not originate from cargo pump-room bilges on oil tankers; and
 - (e) the discharge, in case of oil tankers, is not mixed with oil cargo residues.
- (8) This section shall not apply to the discharge of oil or oily mixtures from the cargo area of an oil tanker if:
 - (a) the oil tanker is not in a special area;
 - (b) the oil tanker is more than 50 nautical miles from the nearest land;
 - (c) the oil tanker is underway;
 - (d) the instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile;

- (e) the total quantity of oil discharged into the sea does not exceed, for tankers delivered on or before 31 December 1979, 1/15,000 of the total quantity of the particular cargo of which the residue formed a part, and for tankers delivered after 31 December 1979, 1/30,000 of the total quantity of the particular cargo of which the residue formed a part; and
- (f) the oil tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by Regulations 29 and 31 of Annex I of MARPOL.

8. Construction of vessels and oil pollution prevention equipment

- (1) Any vessel in Papua New Guinea waters and any Papua New Guinea vessel wherever it may be 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:
 - (a) Regulation 12 regarding tanks for oil residues (sludge) for vessels of 400 gross tonnage and above;
 - (b) Regulation 12A regarding oil fuel tank protection for vessels with an aggregate oil fuel capacity of 600m³ and above;
 - (c) Regulation 13 regarding standard discharge connection;
 - (d) Regulation 14 regarding oil filtering equipment for vessels of 400 gross tonnage and above;;
 - (e) Regulation 18 regarding segregated ballast tanks for oil tankers;
 - (f) Regulation 19 regarding double hull and double bottom requirements for oil tankers delivered on or after 6 July 1996;
 - (g) Regulation 20 regarding double hull and double bottom requirements for oil tankers delivered before 6 July 1996;
 - (h) Regulation 21 regarding prevention of pollution from oil tankers carrying heavy grade oil as cargo;
 - (i) Regulation 22 regarding pump-room bottom protection;
 - (j) Regulations 23 to 25 regarding accidental oil outflow performance;
 - (k) Regulation 26 regarding limitations of size and arrangement of cargo tanks for oil tankers;

- (l) Regulation 27 regarding intact stability for oil tankers;
 - (m) Regulation 28 regarding subdivision and damage stability for oil tankers;
 - (n) Regulation 29 regarding slops tanks for oil tankers of gross tonnage 150 and above;
 - (o) Regulation 30 regarding pumping, piping and discharge arrangements for oil tankers;
 - (p) Regulation 31 regarding oil discharge monitoring and control systems;
 - (q) Regulation 32 regarding oil/water interface detector for oil tankers of 150 gross tonnage and above;
 - (r) Regulations 33 and 35 regarding crude oil washing systems for crude oil tankers of 20,000 tonnes deadweight and above.
- (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.
- (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):
- (a) the owner of the vessel; and
 - (b) the master of the vessel;

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.

9. Notices

- (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:
- (a) wheel-house,
 - (b) engine room; and

(c) accommodation area;

which notify the crew and passengers, in clear and simple terms, of the requirements of Subsections 7(1) and 7(2).

(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.

(3) If any vessel to which this section applies does not comply with any provision of this section:

(a) the owner of the vessel; and

(b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding **K1,000**.

10. Oil Record Book

(1) An Oil Record Book Part I (Machinery Space Operations), whether as part of the vessel's official log book or otherwise, shall be carried by:

(a) any Papua New Guinea oil tanker of gross tonnage 150 and above, in the form prescribed; and

(b) any foreign oil tanker of gross tonnage 150 and above that enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters, in the form specified in Regulation 17 and Appendix III of Annex 1 of MARPOL; and

(c) any Papua New Guinea vessel of gross tonnage 400 and above other than an oil tanker, in the form prescribed; and

(d) any foreign vessel of gross tonnage 400 and above other than an oil tanker that enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters, in the form specified in Regulation 17 and Appendix III to Annex 1 of MARPOL.

(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 without delay whenever any of the following machinery space operations are carried out:

(a) ballasting or cleaning of oil fuel tanks;

- (b) discharge of dirty ballast or cleaning water from tanks referred to in subparagraph (a);
 - (c) collection and disposal of oily residues (sludge and other oil residues);
 - (d) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces;
 - (e) bunkering of fuel or bulk lubricating oil; as well as
 - (f) any failure of the oil filtering equipment.
- (3) An Oil Record Book Part II (Cargo/Ballast Operations), whether as part of the vessel's official log book or otherwise, shall be carried by:
- (a) every Papua New Guinea oil tanker of gross tonnage 150 and above, in the form prescribed; and
 - (b) every foreign oil tanker of gross tonnage 150 and above that enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters, in the form specified in Regulation 36 and Appendix III to Annex 1 of MARPOL.
- (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:
- (a) loading of oil cargo;
 - (b) internal transfer of oil cargo during a voyage;
 - (c) unloading of oil cargo;
 - (d) ballasting of cargo tanks and dedicated clean ballast tanks;
 - (e) cleaning of cargo tanks including crude oil washing;
 - (f) discharge of ballast except from segregated ballast tanks;
 - (g) discharge of water from slop tanks;
 - (h) closing of all applicable valves or similar devices after slop tank discharge operations;

- (i) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations; and
 - (j) disposal of residues.
- (5) In the event of any discharge of the kind referred to in Subsections 7(4) to 7(8), whether intentional or accidental, an entry shall be made in the relevant Part of the Oil Record Book stating the circumstances of, and the reason for, the discharge.
- (6) Each operation referred to in Subsections (2) and (4) and any discharge referred to in Subsection (5) of this section shall be fully recorded without delay in the relevant Part of the Oil Record Book so that all entries in the Book appropriate to that operation are completed. Each entry shall be signed by the officer or officers in charge of the operation concerned and each page shall be signed by the Master of the vessel.
- (7) The entries in the Oil 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 Oil Pollution Prevention Certificate, at least in English, French or Spanish. 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.
- (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.
- (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 wherever it may be, shall ensure that the offshore installation complies with the provisions of Subsections (1) and (2), as far as applicable and with any necessary modifications.
- (10) The Authority or an Inspector appointed under Section 57 may;
 - (a) inspect the Oil Record Book on board any vessel or 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
 - (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.

- (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.
- (12) The inspection of an Oil Record Book and the taking of a certified copy under Subsection (10) shall be performed as expeditiously as possible without causing the vessel to be unduly delayed.
- (13) If any vessel or offshore installation to which this section applies fails to comply with any provision of this section;
 - (a) the owner of the vessel; and
 - (b) the master of the vessel; or
 - (c) the owner, operator and the person in charge of the offshore installation;
 - (d) each commit an offence and are each liable upon conviction to a fine not exceeding K10,000.
- (14) Any person who makes an entry in any records to be kept in accordance with this section which to his or her knowledge is false or misleading, commits an offence, and is liable upon conviction to a fine not exceeding K25,000.

11. Surveys and inspections

- (1) Every Papua New Guinea oil tanker of gross tonnage 150 and above, and every other Papua New Guinea vessel of gross tonnage 400 and above, shall be subject to the following surveys:
 - (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;
 - (b) annual or biennial surveys, at the Authority's discretion, to assess:
 - (i) whether or not the design, construction, equipment, systems, fittings, arrangements and material fully comply with the requirements of Section 8 as applicable; and

- (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
 - (iii) the validity or otherwise of the Certificate issued under Section 12.
- (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.
- (3) Surveys and inspections under this section shall be carried out by officers of the Authority. The Authority may, however, appoint Recognized Organizations and Approved Surveyors to undertake such surveys or inspections on the Authority's behalf, and any Recognized Organizations and Approved Surveyors so appointed must meet certain qualifications and criteria, as prescribed.
- (4) When a survey or inspection carried out under Subsection (1) or (2) determines that the condition of the vessel or its equipment:
 - (a) does not comply with the provisions of Section 8 that are applicable;
or
 - (b) does not correspond substantially with the particulars of the Certificate issued under Section 12 or required under Section 13; or
 - (c) is such that the vessel is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment;

in the case where the survey or inspection is undertaken by an Recognized Organization or Approved Surveyor, the Recognized Organization or Approved Surveyor shall report the matter immediately to the Authority, and in all cases the Authority may:

- (i) suspend or withdraw the Certificate issued under Section 12; and/or

- (ii) instruct the owner of the vessel to take corrective action; and/or
 - (iii) 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.
- (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.
- (6) 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 8, as applicable, 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.
- (7) If any vessel to which this section applies fails to comply with any provisions of this section:
 - (a) the owner of the vessel; and
 - (b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.

12. Issue of International Oil Pollution Prevention (IOPP) Certificate

- (1) An International Oil Pollution Prevention (IOPP) Certificate in the form prescribed, 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.
- (2) Such Certificate shall be issued either by the Authority or by a Recognized Organization only.

13. Carriage of valid Certificate

- (1) A current and valid IOPP Certificate approved and issued in accordance with Sections 11 and 12 shall be carried by:
 - (a) any Papua New Guinea oil tanker of gross tonnage 150 and above; and
 - (b) any other Papua New Guinea vessel of gross tonnage 400 and above.
- (2) A current and valid IOPP Certificate in the form specified in Appendix II of Annex 1 of MARPOL, issued and approved by the flag State or its recognized organization, shall be carried by:
 - (a) any foreign oil tanker of gross tonnage 150 and above; and
 - (b) any other foreign vessel of gross tonnage 400 and above;that enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters.
- (3) If any vessel to which this section applies fails to comply with any provisions of this section:
 - (a) the owner of the vessel; and
 - (b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.

14. Duration of Certificate

- (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.
- (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.

- (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.

15. Shipboard Oil Pollution Emergency Plan (SOPEP)

- (1) A Shipboard Oil Pollution Emergency Plan (SOPEP) shall be carried by:
 - (a) any Papua New Guinea vessel carrying 2,000 litres or more of oil as fuel and/or cargo; and
 - (b) any foreign oil tanker of gross tonnage 150 and above which enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters; and
 - (c) any other foreign vessel of gross tonnage 400 and above which enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters.
- (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.
- (3) The plans required under Subsection (1) shall be in accordance with Guidelines developed by the International Maritime Organization, as prescribed, and written in English and a working language or languages understood by the master and officers of the vessel.
- (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 Part III, in which case, the title of such a plan shall be “Shipboard Marine Pollution Emergency Plan (SMPEP)”.
- (5) If any vessel to which this section applies fails to comply with any provisions of this section:
 - (a) the owner of the vessel; and
 - (b) and the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding **K10,000**.

Part III - Prevention of pollution by noxious liquid substances

16. Purpose and application of this Part

- (1) The purpose of this Part is to give effect to relevant provisions of Annex II of MARPOL.
- (2) This Part applies to any vessel in Papua New Guinea waters and any Papua New Guinea vessel wherever it may be, that is carrying noxious liquid substances in bulk.

17. Discharge of noxious liquid substances

- (1) Subject to Subsections (2) and (5) the discharge of noxious liquid substances from any vessel is prohibited.
- (2) The discharge of residues of noxious liquid substances which remain in a vessel's cargo tanks after unloading or the discharge of ballast water, tank washings or other mixtures containing such substances may only be undertaken in full compliance with Regulation 13 of Annex II of MARPOL.
- (3) If any noxious liquid substances are 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; and/or
 - (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;

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.

- (4) 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 *Marine Pollution (Liability & Cost Recovery) Act*, as applicable.

- (5) This section shall not apply to a discharge of noxious liquid substances:
- (a) necessary for the purpose of securing the safety of a vessel or saving human life, providing that the discharge was necessary and reasonable in the circumstances; or
 - (b) resulting from damage to a vessel or its equipment, provided that:
 - (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
 - (ii) the discharge is immediately reported to the Authority in accordance with Section 56;
- 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.

18. Construction of vessels and pollution prevention equipment

- (1) Any vessel carrying noxious liquid substances in bulk in Papua New Guinea waters and any Papua New Guinea vessel carrying noxious liquid substances in bulk wherever it may be, shall comply with the construction, pollution prevention equipment and related provisions contained in the following Regulations of Annex II of MARPOL, as applicable to each vessel type and size:
- (a) Regulation 11 regarding design, construction, equipment and operations; and
 - (b) Regulation 12 regarding pumping, piping, unloading arrangements and slops tanks.
- (2) If any vessel to which this section applies does not comply with any provisions of this section:
- (a) the owner of the vessel; and
 - (b) the master of the vessel;

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.

19. Procedures and Arrangements Manual and Cargo Record Book (PAM-NLS)

- (1) Every vessel to which this Part applies shall have on board a Procedures and Arrangements Manual for Noxious Liquid Substances (PAM-NLS) which, for Papua New Guinea vessels shall be in the form prescribed, and, for all other vessels, shall comply with Regulation 14 of Annex II of MARPOL, as applicable.
- (2) A Cargo Record Book, whether as part of the vessel's official log book or otherwise, shall be carried on every vessel to which this Part applies, and for Papua New Guinea vessels shall be in the form prescribed, and for all other vessels shall be in the form specified in Appendix 2 to Annex II of MARPOL.
- (3) The master of any vessel referred to in Subsection (2) 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:
 - (a) loading of cargo;
 - (b) internal transfer of cargo;
 - (c) unloading of cargo;
 - (d) mandatory pre-wash in accordance with the ship's Procedures and Arrangements Manual;
 - (e) cleaning of cargo tanks except mandatory prewash;
 - (f) discharge into the sea of tank washings;
 - (g) ballasting of cargo tanks;
 - (h) discharge of ballast water from cargo tanks;
 - (i) accidental or other exceptional discharge;
 - (j) control by authorized surveyors.
- (4) In the event of any discharge of the kind referred to in Subsections 17(2)) and 17(5), whether intentional or accidental, an entry shall be made in the Cargo Record Book stating the circumstances of, and the reason for, the discharge.
- (5) 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.

- (6) Each operation referred to in Subsections (3) and (4) 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 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.
- (7) 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, French or Spanish. 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.
- (8) 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.
- (9) The Authority or an Inspector appointed under Section 57 may:
 - (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
 - (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.
- (10) Any copy made under subparagraph (b) of Subsection (9), 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.
- (11) The inspection of a Cargo Record Book and the taking of a certified copy under Subsection (9) shall be performed as expeditiously as possible without causing the vessel to be unduly delayed.
- (12) If any vessel to which this section applies fails to comply with any provision of this section;
 - (a) the owner of the vessel, and
 - (b) the master of the vessel;

each commit an offence and are each liable upon conviction to a fine not exceeding K10,000.

- (13) Any person who makes an entry in any records to be kept in accordance with this section which to his or her knowledge is false or misleading commits an offence, and is liable upon conviction to a fine not exceeding K25,000.

20. Surveys and inspections

- (1) Every Papua New Guinea vessel carrying noxious liquid substances in bulk shall be subject to the following surveys:
- (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;
 - (b) annual or biennial surveys, at the Authority's discretion, to assess:
 - (i) whether or not the design, construction, equipment, systems, fittings, arrangements and material fully comply with the requirements of Section 18 as applicable;
 - (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
 - (iii) the validity or otherwise of the Certificate issued under Section 21.
- (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 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.
- (3) Surveys and inspections under this section shall be carried out by officers of the Authority. The Authority may, however, appoint Recognized Organizations and Approved Surveyors to undertake such surveys or inspections on the Authority's behalf, and any Recognized Organizations and

Approved Surveyors so appointed must meet certain qualifications and criteria, as prescribed.

- (4) When a survey or inspection carried out under Subsection (1) or (2) determines that the condition of the vessel or its equipment:
 - (a) does not comply with Section 18; or
 - (b) does not correspond substantially with the particulars of the Certificate issued under Section 21 or required under Section 22; or
 - (c) is such that the vessel is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment;

in the case where the survey or inspection is undertaken by an Approved Surveyor or Recognized Organization, the Approved Surveyor or Recognized Organization shall report the matter immediately to the Authority, and in all cases the Authority may:

- (a) suspend or withdraw the Certificate issued under Section 21; and/or
 - (b) instruct the owner of the vessel to take corrective action; and/or
 - (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 21 is re-validated or re-issued.
- (5) 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.
- (6) 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.
- (7) If any vessel to which this section applies fails to comply with any provisions of this section:
 - (a) the owner of the vessel; and

(b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.

21. Issue of International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (NLS Certificate)

- (1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (NLS Certificate), in the form prescribed, shall be issued, after passing survey in accordance with Section 20, to any Papua New Guinea vessel carrying noxious liquid substances in bulk.
- (2) Such Certificate shall be issued either by the Authority or by a Recognized Organization only.

22. Carriage of valid Certificate

- (1) A current and valid NLS Certificate, 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.
- (2) A current and valid NLS Certificate, in the form specified in Appendix 3 of Annex II of MARPOL, issued and approved by the flag State or its recognized 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.
- (3) If any vessel to which this section applies fails to comply with any provisions of this section:
 - (a) the owner of the vessel; and
 - (b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.

23. Duration of Certificate

- (1) An NLS 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.
- (2) An NLS 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.
- (3) An NLS Certificate issued under Section 21 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.

24. Shipboard Marine Pollution Emergency Plan (SMPEP)

- (1) A Shipboard Marine Pollution Emergency Plan (SMPEP) shall be carried by any vessel to which this Part applies.
- (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.
- (3) The plans required under Subsection (1) shall be in accordance with Guidelines developed by the International Maritime Organization, as prescribed, and written in English and a working language or languages understood by the master and officers of the vessel.
- (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 Part II, in which case, the title of such a plan shall be “Shipboard Marine Pollution Emergency Plan (SMPEP)”.
- (5) If any vessel to which this section applies fails to comply with any provisions of this section:

(a) the owner of the vessel; and

(b) and the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K10,000.

Part IV – Prevention of pollution by harmful substances in packaged form

25. Purpose and application of this Part

- (1) The purpose of this Part is to give effect to relevant provisions of Annex III of MARPOL.
- (2) This Part applies to any vessel in Papua New Guinea waters and any Papua New Guinea vessel wherever it may be, carrying harmful substances in packaged form as cargo.

26. Interpretation

For the purposes of this Part “**discharge**” 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.

27. Discharge of harmful substances

- (1) Subject to Subsection (4) the discharge of harmful substances from any vessel is prohibited.
- (2) If any harmful substances is discharged from any vessel:
 - (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; and/or
 - (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;

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.

- (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 *Marine Pollution (Liability & Cost Recovery) Act*, as applicable.
- (4) This section shall not apply to the discharge of harmful substances:
 - (a) necessary for the purpose of securing the safety of a vessel or saving human life, providing that the discharge was necessary and reasonable in the circumstances; or
 - (b) resulting from damage to a vessel or its equipment, provided that:
 - (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
 - (ii) the discharge is immediately reported to the Authority in accordance with Section 56;

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.

28. Packing, marking, labeling & stowage

- (1) Packages containing harmful substances shall be adequate to minimize the hazard to the marine environment, having regard to their specific contents.
- (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".
- (3) Such identification shall be supplemented where possible by any other means, for example by use of the relevant United Nations number.
- (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.

- (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.
- (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:
 - (a) the owner of the vessel; and
 - (b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K250,000 or a term of imprisonment not exceeding two years.

29. Harmful Substances Manifest and other documentation

- (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”.
- (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.
- (3) Each vessel carrying harmful substances shall have a Harmful Substances Manifest, which for Papua New Guinea vessels shall be in the form 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 or her representative until the harmful substances are unloaded, and a copy shall be made available to the Authority or its designated agent 48 hours prior to the vessel putting to sea.
- (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.
- (5) If any vessel to which this section applies does not comply with any provisions of this section:

- (a) the owner of the vessel; and
- (b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.

Part V – Prevention of pollution by sewage

30. Purpose and application of this Part

- (1) The purpose of this Part is to give effect to relevant provisions of Annex IV of MARPOL.
- (2) This Part applies to:
 - (a) any vessel in Papua New Guinea waters that is of 400 gross tonnage and above; and
 - (b) any Papua New Guinea vessel of 400 gross tonnage and above wherever it may be; and
 - (c) any vessel in Papua New Guinea waters that is less than 400 gross tonnage which is certified to carry 15 persons or more, and
 - (d) any Papua New Guinea vessel less than 400 gross tonnage which is certified to carry 15 persons or more, wherever it may be;

and Section 33 applies to all vessels of any size.

31. Entry into force of this Part

This Part shall enter into force two years from the date that this Act is enacted.

32. Discharge of sewage

- (1) The discharge of sewage from vessels to which this Part applies is prohibited except when:
 - (a) the vessel has in operation an approved sewage treatment plant which has been certified by the Authority or its Recognized Organization in the case of a Papua New Guinea vessel, or certified by the flag State or its

recognized organization in the case of a foreign vessel, 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

- (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 or its Recognized Organization in the case of a Papua New Guinea vessel, or approved by the flag State or its recognized organization in the case of a foreign vessel, in accordance with Regulation 9.1.2 of Annex IV to MARPOL; or
- (c) 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 enroute and proceeding at not less than 4 knots; or
- (d) the discharge of sewage is necessary for the purpose of securing the safety of a vessel and those on board or saving human life; or
- (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.

(2) If any sewage is discharged from any vessel to which this Part applies 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;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K20,000.

33. Vessels in ports and marinas

- (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 except when the vessel has in operation an approved sewage treatment plant which has been certified by the Authority or its Recognized Organization in the case of a Papua New Guinea vessel,

or certified by the flag State or its recognized organization in the case of a foreign vessel, 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.

- (2) Vessels in ports and marinas that are not equipped with an approved sewage treatment plant as specified in Subsection (1) shall have appropriate arrangements such as holding tanks, shore pump-out arrangements or chemical toilets to ensure compliance with this section.
- (3) If any sewage 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;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K20,000.

Part VI – Prevention of pollution by garbage

34. Purpose and application of this Part

- (1) The purpose of this Part is to give effect to relevant provisions of Annex V of MARPOL.
- (2) This Part applies to any vessel in Papua New Guinea waters and any Papua New Guinea vessel wherever it may be except as otherwise provided in Sections 36 to 38.

35. Discharge of garbage

- (1) The discharge of plastics in any form from any vessel is prohibited.
- (2) The discharge of fishing gear in any form, including synthetic nets and lines, from any vessel is prohibited.
- (3) The discharge of dunnage and cargo lining and packing materials from any vessel is prohibited.

- (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.
- (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;

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.

- (6) This section shall not apply to a discharge of garbage:
- (a) necessary for the purpose of securing the safety of a vessel or saving human life, providing that the discharge or disposal into the sea was necessary and reasonable in the circumstances; or
 - (b) resulting from damage to a vessel or its equipment, provided that:
 - (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
 - (ii) the discharge is immediately reported to the Authority in accordance with Section 56;

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.

- (7) This section shall not apply in the case of the accidental loss of fishing gear from a vessel, provided that:
- (a) all reasonable precautions are taken by the owner and master of the vessel to prevent such accidental loss; and

- (b) all reasonable actions are taken by the owner and master of the vessel to find and recover any fishing gear so lost; and
- (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.

36. Notices

- (1) Any vessel of 12 metres or more in length overall shall display notices in highly visible locations, and where relevant to the vessel, at least in the:
 - (a) wheel-house;
 - (b) galley;
 - (c) dining area; and
 - (d) accommodation area;

which notify the crew and passengers, in clear and simple terms, of the requirements of Subsections 35 (1) to (5) as applicable.

- (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.
- (3) If any vessel to which this section applies does not comply with any provision of this section:
 - (a) the owner of the vessel; and
 - (b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K1,000.

37. Garbage Management Plan

- (1) A Garbage Management Plan which the crew shall follow shall be carried by:
 - (a) any Papua New Guinea vessel of 400 gross tonnage and above, in the form prescribed; and

- (b) any Papua New Guinea vessel which is certified to carry 15 persons or more, in the form prescribed; and
 - (c) any foreign vessel of 400 gross tonnage and above that enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters; and
 - (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
 - (e) any offshore installation that accommodates five persons or more for more than 24 hours when such installation is in Papua New Guinea waters.
- (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 written in English and the working language of the crew.
- (3) If any vessel or offshore installation to which this section applies does not comply with any provision of this section:
- (a) the owner of the vessel; and
 - (b) the master of the vessel; or
 - (c) 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 K20,000.

38. Garbage Record Book

- (1) A Garbage Record Book, whether as a part of the vessel's official log-book or otherwise, shall be carried by:
- (a) any Papua New Guinea vessel of 400 gross tonnage and above; and
 - (b) any Papua New Guinea vessel which is certified to carry 15 persons or more;

engaged in voyages to ports or terminals under the jurisdiction of another State, in the form prescribed; and

(i) any foreign vessel of 400 gross tonnage and above; and

(ii) any foreign vessel which is certified to carry 15 persons or more;

which enters a Papua New Guinea port or terminal or operates in Papua New Guinea waters, in the form specified in the Appendix to Annex V of MARPOL.

- (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.
- (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.
- (4) The owner, operator and person in charge of an offshore installation that accommodates five 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.
- (5) The Authority or an Inspector appointed under Section 57 may:
 - (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
 - (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.
- (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 judicial proceedings as evidence of the facts stated in the entry.
- (7) The inspection of a Garbage Record Book and the taking of a certified copy under Subparagraph (b) of Subsection (5) shall be performed as expeditiously as possible without causing the vessel to be unduly delayed.
- (8) If any vessel or offshore installation to which this section applies fails to comply with any provision of this section:

- (a) the owner of the vessel; and
- (b) the master of the vessel; or
- (c) the owner, the operator and the person in charge of the offshore installation;

each commit an offence and are each liable upon conviction to a fine not exceeding K10,000.

- (9) Any person who makes an entry in any records to be kept in accordance with this section which to his or her knowledge is false or misleading commits an offence, and is liable upon conviction to a fine not exceeding K25,000.

Part VII – Prevention of pollution by anti-fouling systems

39. Purpose and application of this Part

- (1) The purpose of this Part is to give effect to the AFS Convention.
- (2) This part applies to all vessels except as otherwise provided in Section 42 and to any offshore installation and any 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.

40. Entry into force of this Part

This Part shall enter into force two years from the date that this Act is enacted.

41. Controls on anti-fouling systems

- (1) The application, re-application, installation or use of anti-fouling systems containing organotin compounds that act as biocides is prohibited on:
 - (a) any Papua New Guinea vessel;
 - (b) any vessel constructed in a Papua New Guinea ship-building facility;
 - (c) any vessel that enters a port, terminal or ship-repair facility of Papua New Guinea; and

- (d) any offshore installation and any 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.
- (2) The application, re-application, installation or use of harmful anti-fouling systems which are controlled by an amendment to Annex 1 of the AFS Convention is prohibited on:
- (a) any Papua New Guinea vessel;
 - (b) any vessel constructed in a Papua New Guinea ship-building facility;
 - (c) any vessel that enters a port, terminal or ship-repair facility of Papua New Guinea; and
 - (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.

except that vessels bearing such an anti-fouling 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.

- (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);
- (a) the owner of the vessel, and
 - (b) the master of the vessel, or
 - (c) the owner, the operator and the person in charge of the offshore installation or other man-made structure,

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.

42. Surveys, Anti-fouling Systems Certificate (AFS Certificate) and Anti-fouling Systems Declaration (AFS Declaration)

- (1) Any vessel of gross tonnage 400 and above referred to in Subsections 41(1) and 41(2) and engaged in international voyages, excluding offshore installations, FSUs and FPSOs, shall be subject to:
 - (a) an initial survey before the vessel is put into service or before the Anti-fouling Systems Certificate (AFS Certificate) required under Subsection (4) is issued for the first time; and
 - (b) a survey when the anti-fouling systems are changed or replaced, with such surveys endorsed on the AFS Certificate issued under Subsection (4).
- (2) The survey shall ensure that the vessel's anti-fouling system complies fully with this Part and the AFS Convention.
- (3) Surveys under this section shall be carried out by officers of the Authority. The Authority may, however, appoint Recognized Organizations and Approved Surveyors to undertake such surveys or inspections on the Authority's behalf, and any Recognized Organizations and Approved Surveyors so appointed must meet certain qualifications and criteria, as prescribed.
- (4) Any vessel to which Subsection (1) applies shall carry a valid AFS Certificate issued by the Authority or by a Recognized Organization, or by the flag State or its recognized organization. For Papua New Guinea vessels such Certificate shall be in the form prescribed.
- (5) 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 Anti-fouling Systems Declaration (AFS Declaration), signed by the owner or the owner's authorised agent, and for Papua New Guinea vessels such Declaration shall be in the form prescribed. For all vessels to which this section applies such Declaration shall be accompanied by appropriate documentation to verify its contents including a paint receipt or contractor invoice.
- (6) If any vessel to which this section applies fails to comply with the provisions of this section:
 - (a) the owner of the vessel; and
 - (b) the master of the vessel;

each commit an offence and shall each be liable upon conviction to a fine not exceeding K40,000.

Part VIII - Prevention of pollution from offshore installations

43. Purpose and application of this Part

- (1) The purpose of this Part is to prohibit or control the discharge of pollutants from offshore installations.
- (2) This Part applies to any offshore installation in Papua New Guinea waters and any Papua New Guinea offshore installation wherever it may be.

44. Discharge of pollutants

- (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 (3) and except when the discharge is duly authorized under the *Environment Act*.
- (2) In the case where a discharge of oil or oily mixture from an offshore installation is authorized under the *Environment Act*, the oil content of such discharge without dilution shall not exceed 15 parts per million.
- (3) 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.
- (4) 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 in contravention of the provisions of this section:
 - (a) the owner, operator and person in charge of the offshore installation; and
 - (b) any other member of the offshore installation's crew whose act 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
 - (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;

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.

- (5) In the event of a discharge of oil or other pollutants from an offshore installation that is in contravention of the provisions of this section, the owner of the offshore installation shall also be subject to the provisions of the *Marine Pollution (Liability & Cost Recovery) Act*, as applicable.
- (6) 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 K20,000.
- (7) This section shall not apply to a discharge of any pollutant:
 - (a) necessary for the purpose of securing the safety of the offshore installation or saving human life, providing that the discharge was necessary and reasonable in the circumstances; or
 - (b) resulting from damage to an offshore installation or its equipment, provided that:
 - (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
 - (ii) the discharge is immediately reported to the Authority in accordance with Section 56;

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.

45. Discharge prevention, control and containment

- (1) Any offshore installation engaged in the exploration, exploitation and/or associated offshore processing of seabed mineral resources shall comply with the requirements of Annex I of MARPOL applicable to vessels of 400 gross tonnage and above other than oil tankers, except that they shall be equipped with:
 - (a) tanks for oil residues (sludge) as required under Regulation 12 of Annex I of MARPOL; and

(b) oil filtering equipment as required under Regulation 14 of Annex I of MARPOL.

- (2) 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 K1,000,000.

46. Notices, record books and management plans

- (1) Any offshore installation that accommodates five 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.
- (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.
- (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.
- (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.

47. Anti-fouling systems

Any offshore installation to which this Part applies shall comply with Part VII.

Part IX - Waste reception facilities

48. Purpose and application of this Part

- (1) The purpose of this Part is to give effect to the provisions relating to ships' waste reception facilities as contained in Annexes I, II, IV and V of MARPOL.
- (2) This Part applies to all port facilities in Papua New Guinea.

49. Interpretation

For the purposes of this Part:

“**port facility**” means any place where vessels regularly moor at a wharf, jetty or other facility for the purposes of loading and/or unloading passengers and/or cargo and/or for refuelling and/or provisioning; and

“**reception facility**” means a facility, system, arrangement or method for receiving and responsibly managing waste oil, noxious liquid substances, sewage and/or 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.

50. Port facilities to provide waste reception facilities

- (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:
 - (a) waste-oil;
 - (b) noxious liquid substances;
 - (c) sewage; and
 - (d) garbage, including waste fishing gear;from all vessels that use the port facility.
- (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.
- (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:
 - (a) in undertaking joint assessments of the demand for reception facilities; and
 - (b) in providing joint reception facilities under an integrated waste management plan for the whole port area;

whereunder the owner or operator of each individual port facility shall be responsible for the costs of each element relating to their port facility

- (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 a 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.

51. Recovery of costs & Waste Reception Levies

- (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.
- (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.
- (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.
- (4) Waste Reception Levies may be collected by the Authority or the owner or operator of each port facility, as prescribed.

52. Responsible waste management

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 *Environment Act* and any applicable Government, Provincial and Municipal waste management policies and plans.

53. Quarantine wastes

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 *Quarantine Act*.

54. Offences

The owner and operator of any port facility that fails to comply with this Part each commit an offence and shall each be liable upon conviction to a fine not exceeding K500,000.

Part X - Miscellaneous, administration and enforcement

55. Administration, enforcement, prosecution and jurisdiction

- (1) 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 Act, under the supervision of the Authority.
- (2) The General Manager of the Authority, or his or her delegate, may, after consultation with the Public Prosecutor, institute and conduct prosecutions for offences under this Act.
- (3) An offence against this Act shall be prosecuted:
 - (a) in the District Court where the offence provides for a maximum monetary penalty of K50,000, in the case of a person other than a Corporation; or
 - (b) in the National Court in any other case.

56. Duty to report incidents

- (1) If any:
 - (a) oil, oily mixtures or oil residues;
 - (b) noxious liquid substance;
 - (c) harmful substance, in packaged form or otherwise;
 - (d) garbage, including fishing gear; or
 - (e) any other pollutant;

is discharged from any vessel or offshore installation in Papua New Guinea waters or from any Papua New Guinea vessel or Papua New Guinea offshore installation wherever it may be; in contravention of the provisions of this Act;

or

if any vessel of 15 metres in length or more in Papua New Guinea waters or if any Papua New Guinea vessel 15 metres in length or more wherever it may be, suffers damage, failure or breakdown, or is involved in a collision, grounding, fire, explosion, structural failure, equipment failure, flooding, cargo shifting or any other incident which results in impairment of safety of navigation or threatens a possible discharge;

or

if any offshore installation in Papua New Guinea waters or any Papua New Guinea offshore installation wherever it may be, suffers damage, failure or breakdown, or is involved in a collision, fire, explosion, structural failure, equipment failure, flooding or any other incident which results in impairment of safety of operation or threatens a possible discharge;

the owner, master or person in charge of the vessel or offshore installation shall by the fastest means available and with the highest possible priority report the incident to the Authority, and in the case when the nearest coastal State is not Papua New Guinea, also to the relevant authorities in the nearest coastal State, in accordance with the standard Incident Report format contained in Schedule 1.

- (2) A report made by a person under Subsection (1) is not admissible in evidence against that person, or any other person involved in the incident being reported, in any legal proceedings.
- (3) Any person who:
 - (a) fails to reasonably comply with any provision of Subsection (1); or
 - (b) makes a report containing any information that to his or her knowledge is false or misleading;

commits an offence and is liable upon conviction to a fine not exceeding **K25,000**.

57. Appointment of inspectors

- (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 officer of the National Government or of a Provincial Government as an inspector under this Act.

- (2) 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.
- (3) Inspectors shall be issued with an identity card by the Authority in a form approved by the Authority.
- (4) Where a person in possession of an identity card issued to him under Subsection (3) ceases to be an inspector, he shall forthwith return the identity card to the Authority.
- (5) Any person who fails to comply with Subsection (4) commits an offence and is liable upon conviction to a fine not exceeding K1,000.

58. Boarding of vessels etc by inspectors

- (1) Where there are clear grounds for believing that any vessel has violated any provision(s) of this Act, or that there is in or on that vessel, any matter or thing that may afford evidence as to the commission of an offence against this Act; and
 - (a) the vessel is voluntarily within a Papua New Guinea port or terminal; or
 - (b) the vessel is within the territorial sea of Papua New Guinea; or
 - (c) the vessel is a Papua New Guinea vessel anywhere;

an inspector may, with such assistance as he or she thinks necessary, board that vessel for the purposes of exercising the functions of an inspector in accordance with Section 60, and may for that purpose, stop and detain that vessel.

- (2) Where there are clear grounds for believing that a vessel has violated any provision(s) of this Act:
 - (a) while in the exclusive economic zone of Papua New Guinea; and
 - (b) the vessel is within Papua New Guinea waters;

the Authority or an inspector may require the vessel to give information regarding:

- (i) its identity and port of registry;

- (ii) its last and next port of call; and
 - (iii) any other relevant information required to establish whether a violation of this Act has occurred.
- (3) Where there are clear grounds for believing that a vessel has violated any provision(s) of this Act while in the exclusive economic zone of Papua New Guinea, resulting in a substantial discharge causing or threatening significant pollution of the marine environment; and
 - (a) the vessel is within Papua New Guinea waters; and
 - (b) the vessel has refused to give information as outlined under Subsection (2) or the information supplied appears to be at variance with the evident factual situation;

an inspector may, with such assistance as he or she thinks necessary, board that vessel for the purposes of exercising the functions of an inspector in accordance with Section 60.

- (4) Where there is clear objective evidence that a vessel has violated any provision(s) of this Act while in the exclusive economic zone of Papua New Guinea resulting in a discharge causing major damage or threat of major damage to the coastline or resources or related interests of Papua New Guinea and the vessel is within Papua New Guinea waters, an inspector may, with such assistance as he or she thinks necessary, board that vessel for the purposes of exercising the functions of an inspector in accordance with Section 60, and may for that purpose, stop and detain that vessel.
- (5) An inspector may require any person on board a vessel to which this section applies, whom the inspector finds committing, or whom the inspector suspects on clear reasonable grounds of having committed, an offence against this Act to state his or her full name and usual place of residence.
- (6) Subject to Subsections (1) to (4), where an inspector believes on clear reasonable grounds that a vessel to which this section applies and that is in Papua New Guinea waters 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.
- (7) An inspector may, for the purposes of this Act, require the person in charge of a vessel to which this section applies, to give information concerning the vessel and its crew and any other person on board the vessel.

- (8) Where an inspector boards a vessel to which this section applies, or makes a requirement of a person under this section, the inspector shall produce his or her identity card for inspection by that person and the person in charge of that vessel 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 to detain that vessel, or to make any requirement of a person.
- (9) 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 K20,000.

59. Access to premises and offshore installations

- (1) An inspector may, with the consent of the occupier of any premises, or offshore installation, enter the premises or offshore installation for the purpose of exercising the functions of an inspector in accordance with Section 60.
- (2) Where an inspector believes on reasonable grounds that there is on the premises or offshore installation 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 premises or offshore installation for the purpose of exercising the functions of an inspector in accordance with Section 60.
- (3) If, on an application under Subsection (2), the magistrate is satisfied, by information on oath or affirmation:
 - (a) that there are clear reasonable grounds to believe that there is on the premises or offshore installation to which the application relates any matter or thing that may afford evidence as to the commission of an offence against this Act; and
 - (b) that the issue of the warrant is reasonably required for the purposes of this Act;

the magistrate may grant a warrant authorizing the inspector, with such assistance as the inspector thinks necessary, to enter the premises or offshore installation, 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.

- (4) Where an inspector has entered any premises or offshore installation 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.

60. Functions of inspectors

- (1) The functions of an inspector who boards a vessel under Section 58 or enters premises or an offshore installation under Section 59 are as follows:
 - (a) to assess compliance with this Act;
 - (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;
 - (c) to search for, inspect, take extracts from and make copies of any document that relates to the requirements of this Act; and
 - (d) to undertake Port State Control functions as provided for under MARPOL and the AFS Convention.
- (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.

61. Powers of arrest of inspectors

- (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 produce his or her identity card for inspection by that person.
- (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 the court or other proper authority to be dealt with in accordance with law, except in the case where the person arrested may be the master of a vessel or person in charge of an offshore installation or any other person whose immediate removal might pose a threat to the safe operation of the vessel or offshore installation, in which case such person shall be permitted to carry out any such tasks that are critical to the safe operation of the vessel or offshore installation until such time that they can be satisfactorily relieved.
- (4) Nothing in this section prevents the arrest of a person in accordance with any other law.

62. Evidence

- (1) In any proceedings for an offence against a provision of this Act:

- (a) any record kept or certificate given in pursuance of this Act is admissible as *prima facie* evidence of the facts stated in the record or certificate;
 - (b) a copy of an entry in a record, being a copy certified by the person by whom the record is required to be kept to be a true copy of the entry, is admissible as *prima facie* evidence of the facts stated in the entry; and
 - (c) a document purporting to be a document kept in pursuance of this Act, or purporting to be such a certified copy as referred to in paragraph (b), shall, unless the contrary is proved, be deemed to be such a record or certified copy, as the case may be.
- (2) Where in any proceedings under this Act the place or area in which a vessel is alleged to have been at a particular date and time or during a particular period of time is material to an offence charged, then a place or area stated in a certificate given by an inspector who exercised his or her powers as an Inspector under Section 58 and Section 60 in relation to the offence charged, shall be *prima facie* evidence, unless the contrary is proved, of the place or area in which the vessel was at the date and time or during the period of time stated.
- (3) For the purposes of this section, a document purporting to be a certificate referred to in Subsection (2) shall, unless the contrary is proved, be deemed to be such a certificate.

63. Regulations

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.

64. Offences and penalties

- (1) Every person who commits an offence against this Act or any regulations made thereunder for which no penalty is provided elsewhere, shall be liable upon conviction:
- (a) in the case of a corporation to a fine not exceeding K1,000,000
 - (b) in the case of an individual to a fine not exceeding K250,000 or a term of imprisonment not exceeding two years.

- (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 K1,000 for every day during which the offence continues.

65. Recovery of fines by distress

Where a Court orders a person convicted of any offence against this Act to pay any fine or other costs and that person is the owner or master of a vessel 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.

66. Detention of vessels

- (1) Subject to Section 58, where the Authority has clear reasonable grounds 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 *Marine Pollution (Liability & Cost Recovery) Act*, be adequate to meet the owner's liability for the costs of preventing, minimizing and ameliorating any pollution from the discharge.
- (2) If any vessel is detained under this section and the vessel proceeds to sea before it is released by the Authority:

- (a) the owner of the vessel; and
- (b) the master of the vessel;

each commit an offence and are each liable upon conviction to a fine not exceeding K1,000,000.

67. Time limit for prosecution proceedings

- (1) A proceeding for prosecution for an offence against this Act must start:
 - (a) within two years after the commission of the offence; or

- (b) within two years after the offence comes to the complainant's knowledge, but within three years after the commission of the offence.
- (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.

68. Acts repealed

The *Prevention of Pollution from Ships Act* and the *Prevention of Pollution from Ships Regulation* are repealed.

Schedule 1: Standard Incident Report

Incident Reports made to the Authority in accordance with Section 56 shall be in the format below. This format is consistent with the General Principles for Ship Reporting Systems and Ship Reporting Requirements, including Guidelines for Reporting Incidents Involving Dangerous Goods, Harmful Substances and/or Marine Pollutants, adopted as Resolution A.851(20) by the International Maritime Organization (IMO), and should be followed so far as possible.

(Note: The reference letters in the listing below do not follow the complete alphabetical sequence as certain letters are allocated to information required for other reporting formats).

- A.** Name of ship, call sign and flag.
- B.** Date and time (UTC, formerly known as GMT) of incident: a 6-digit group giving day of month (first two digits), hours and minutes (last four digits).

Either

- C.** Ship's position, giving latitude: a 4-digit group in degrees and minutes suffixed with N (North) or S (South); and longitude: a 5-digit group in degrees and minutes suffixed with E (East) or W (West);

Or

- D.** Ship's position by true bearing (first 3 digits) and distance (stated) from a clearly identified landmark.
- E.** True course (as a 3-digit group).
- F.** Speed (in knots and tenths of a knot as a 3-digit group).
- L.** Route information - details of intended track.
- M.** Full details of radio stations and frequencies being guarded.
- N.** Time of next report (a 6-digit group as in B).
- O.** Draught (a 4-digit group giving draught in metres and centimetres).
- P.** Types and quantities of cargo and bunkers on board
- Q.** Brief details of defects, damage, deficiencies or other limitations. These must include the condition of the ship and the ability to transfer cargo, ballast, or fuel.

R. Brief details of actual pollution. This should include the type of pollutant, an estimate of the quantity discharged, whether the discharge is continuing, the cause of the discharge and, if possible, an estimate of the movement of the slick.

S. Weather and sea condition, including wind force and direction and relevant tidal or current details.

T. Name, address, telex, facsimile and telephone numbers of the ship's owner or representative (manager or operator of the ship, or their agents).

U. Details of length, breadth, tonnage and type of ship.

W. Total number of persons onboard.

X. Miscellaneous - to include relevant details including, as appropriate:

- Brief details of incident.
- Names of other ships involved.
- Action taken with regard to the discharge and movement of the ship.
- Assistance or salvage resources which have been requested or provided.
- Personnel injuries sustained.
- Whether medical assistance is required.

If no outside assistance is required, this should be clearly stated.

Reports should be transmitted by the quickest available means to the responsible authorities of the nearest coastal State or the Rescue Co-ordination Centre (RCC) via the appropriate shore radio station. If the ship is within or near to an area for which a ship reporting system has been established, reports should be transmitted to the designated shore station of that system.