

PREVENTION OF POLLUTION OF THE SEA ACT

(CHAPTER 243)

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Prevention of Pollution of the Sea Act.

Interpretation

2. —(1) In this Act, unless the context otherwise requires —

"appointed authority" means the Maritime and Port Authority of Singapore established under the Maritime and Port Authority of Singapore Act (Cap. 170A) and any person appointed by the Minister for the purposes of this Act or any regulations made thereunder;

"Authority" means the Maritime and Port Authority of Singapore established under the Maritime and Port Authority of Singapore Act;

"Convention" means the Convention of 1973 as modified and added to by the Protocol of 1978;

"Convention of 1973" means the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973;

"Director" means the Director of Marine appointed under section 4 of the Merchant Shipping Act (Cap. 179) and includes the Deputy Director of Marine appointed under that section;

"discharge" , in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship, place or thing and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying but does not include —

(a) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or

(b) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control;

"garbage" means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically except sewage originating from ships;

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

"inspector" means a person who —

(a) is a surveyor of ships; or

(b) is appointed in writing by the Director to be an inspector for the purposes of this Act or any regulations made thereunder;

"in packaged form" means in an individual package or receptacle including a freight container or a portable tank or tank container or tank vehicle or shipborne barge or other cargo unit containing harmful substances for shipment;

"marine pollutant" means a substance which is identified as a marine pollutant in the International Maritime Dangerous Goods Code published by the International Maritime Organisation, as amended from time to time;

"MARPOL" refers to the Convention;

"MARPOL surveyor" means a surveyor appointed or registered by the Director or by or on behalf of the government of a state party to the Convention;

"master" includes every person, except a pilot, having command or charge of any ship;

"noxious liquid substance" means any substance which is prescribed by regulations as being a noxious liquid substance and which is subject to the provisions of Annex II of the Convention;

"occupier" , in relation to any place on land if it has no actual occupier, means the owner thereof and, in relation to a railway wagon or road vehicle, means the person in charge of the wagon or vehicle and not the occupier of the land on which the wagon or vehicle stands;

"oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are prescribed by regulations as being subject to the provisions of Annex II of the Convention) and, without limiting the generality of the foregoing, includes the substances prescribed by regulations as being listed in Appendix I of Annex I of the Convention;

"oily mixture" means a mixture with an oil content of 15 parts or more in 1 million parts of the mixture;

"oil residues" means any waste material consisting of, or arising from, oil or oily mixture;

"oil terminal" means any place having permanent means of loading or discharging oil, whether in bulk or package, into or from any ship;

owner, in relation to a ship, means the person registered as the owner of the ship or, in the absence of registration, the person owning the ship or the bareboat charterer of the ship; and, in the case of a ship owned by a state and operated by a company which in that state is registered as the ship's operator, "owner" shall include such state;

"place on land" includes anything resting on the bed or shore of the sea, or of Singapore waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of the sea or of Singapore waters;

"plastics" includes, but is not limited to, synthetic ropes, synthetic fishing nets and plastic garbage bags;

"port" has the same meaning as in the Maritime and Port Authority of Singapore Act (Cap. 170A);

"Port Master" means the Port Master appointed under section 15 of the Maritime and Port Authority of Singapore Act and includes any Deputy Port Master appointed under that section;

"Protocol of 1978" means the Protocol relating to the Convention of 1973 which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978;

"reception facilities" means facilities which enable ships to discharge or deposit residues and mixtures, which residues and mixtures contain oil or noxious liquid substances;

"ship" means a vessel of any type operating in the marine environment and includes hydrofoil boats, air cushion vehicles, submersibles, floating craft and fixed or floating platforms;

"Singapore ship" means a ship registered under Part II of the Merchant Shipping Act (Cap. 179);

"Singapore waters" means the following waters:

(a) the whole of the sea within the seaward limits of the territorial waters of Singapore; and

(b) all other waters (including inland waters) which are within these limits and are subject to the ebb and flow of the ordinary tides;

"surveyor of ships" means a surveyor of ships appointed under section 5 of the Merchant Shipping Act;

"tank" means an enclosed space which is formed by the permanent structure of a ship and which is designed for the carriage of liquid in bulk;

"terminal" means any terminal, (including an oil terminal), jetty, pier or mono-buoy, and a yard or drydock (including the precincts thereof) in which vessels are constructed, reconstructed, repaired, refitted, finished or broken up;

"terminal operator" means a person or body of persons having the management of a terminal in Singapore;

"trade effluent" means the solid or liquid waste of any trade, business or manufacture.

[7/96; 8/99]

(2) For the purpose of any provision of this Act relating to the discharge of oil, oily mixture, refuse, garbage, waste matter, plastics, marine pollutant in packaged form, noxious liquid substance or trade effluent from a ship, any floating craft other than a ship which is attached to a ship shall be treated as part of the ship.

(3) Any reference in this Act to the discharge of any oil, oily mixture or noxious liquid substance from a ship or place on land shall, unless the context otherwise requires, be construed as a reference to the discharge of the oil, oily mixture or

substance from the ship or place on land at any place in or outside the area of Singapore and the reference to the area of Singapore shall include the territorial waters of Singapore.

(4) Any reference in this Act to the Convention or any other international agreement shall be construed as including a reference to its protocols, annexes, appendices and other attachments.

[8/99]

PART II

PREVENTION OF POLLUTION FROM LAND AND APPARATUS

Prohibition of discharge of oil or oily mixtures from land or apparatus

3. If any oil or oily mixture is discharged into Singapore waters from any place on land, or from any apparatus used for transferring oil from or to any ship (whether to or from a place on land or to or from another ship) —

(a) if the discharge is from a place on land, the occupier of that place or if the discharge is caused by the act of another person who is in that place without the permission (express or implied) of the occupier, that person; or

(b) if the discharge is from an apparatus used for transferring oil from or to a ship, the person in charge of the apparatus,

shall be guilty of an offence and shall be liable on conviction to a fine of not less than \$1,000 and not more than \$1 million or to imprisonment for a term not exceeding 2 years or to both.

[8/99]

Special defences

4. —(1) Where a person is charged with an offence under section 3 as the occupier of a place on land, or as the person in charge of any apparatus, from which the oil or oily mixture is alleged to have been discharged, it shall be a defence to prove that the discharge of the oil or oily mixture was not due to any want of reasonable care, and that as soon as practicable after the discharge was discovered all reasonable steps were taken for stopping or reducing it.

(2) Without prejudice to subsection (1), it shall be a defence for the occupier of a place on land, who is charged with an offence under section 3, to prove that the discharge was caused by the act of a person who was in that place without the permission (express or implied) of the occupier.

(3) Where a person is charged with an offence under section 3 in respect of the discharge of an oily mixture from a place on land, it shall (without prejudice to any other defence under this section) be a defence to prove —

(a) that the oil was contained in an effluent produced by operations for the refining of oil;

(b) that it was not reasonably practicable to dispose of the effluent otherwise than by discharging it into Singapore waters; and

(c) that all reasonably practicable steps had been taken for eliminating oil from the effluent.

(4) Where it is proved that, at the time to which the charge relates, the surface of the waters into which the oily mixture was discharged or the land adjacent to those waters was fouled by oil, the defence under subsection (3) shall not apply unless the court is satisfied that the fouling was not caused, or contributed to, by oil contained in any effluent discharged at or before that time from that place.

(5) Where any oil or oily mixture is discharged in consequence of the removal of sunk, stranded or abandoned ships by the Authority in exercise of any power conferred by any written law, and apart from this subsection the Authority or a person employed by or acting on behalf of the Authority would be guilty of an offence under section 3 in respect of that discharge, the Authority or person shall not be convicted of that offence unless it is shown that the Authority or that person failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.

[7/96]

Person throwing pollutants into Singapore waters

5. Any person who puts, throws, casts or deposits into Singapore waters, or causes to be put, thrown, cast or deposited thereinto, any oil, oily mixture, refuse, garbage, plastics, waste matter, carcase, noxious liquid substances, marine pollutant in packaged form or trade effluent, shall be guilty of an offence and

shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

PART III

PREVENTION OF POLLUTION FROM SHIPS

Prohibition of discharge of refuse, garbage, wastes, effluents, plastics and dangerous pollutants from ships

6. —(1) Subject to subsection (2) and any regulations made under subsection (5), if any disposal or discharge of refuse, garbage, waste matter, trade effluent, plastics or marine pollutant in packaged form occurs from any ship into Singapore waters, the master, the owner and the agent of the ship shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) Subsection (1) shall not apply to the disposal or discharge of refuse, garbage, waste matter, trade effluent, plastics or marine pollutant in packaged form from a ship —

(a) which is necessary for the purpose of securing the safety of a ship or saving life at sea; or

(b) if the refuse, garbage, waste matter, trade effluent, plastics or marine pollutant in packaged form, as the case may be, escaped from the ship in consequence of damage, other than intentional damage, to the ship or its equipment, and all reasonable precautions were taken after the occurrence of the damage or the discovery of the discharge for the purpose of preventing or minimising the escape of the refuse, garbage, waste matter, trade effluent, plastics or marine pollutant in packaged form, as the case may be.

(3) Subsection (1) shall not apply where a synthetic fishing net, or synthetic material used in the repair of such a net, on a ship is lost at sea, and all reasonable precautions were taken to prevent the loss.

(4) For the purposes of subsection (2), damage to a ship or to its equipment shall be taken to be intentional damage, if the damage arose in circumstances in which the master, the owner or the agent of the ship —

- (a) acted with intent to cause the damage; or
 - (b) acted recklessly and with knowledge that damage would probably result.
- (5) The Authority may, with the approval of the Minister, make regulations to exempt any ship from the operation of subsection (1), either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular descriptions of refuse, garbage, waste matter, trade effluent, plastics or marine pollutant in packaged form or to the disposal or discharge thereof in prescribed circumstances, or in relation to particular areas of the sea.

[7/96]

Prohibition of discharge of oil and oily mixtures from ships

7. —(1) Subject to subsection (2) and any regulations made under subsection (4), if any discharge of oil or oily mixture occurs from a Singapore ship into any part of the sea or from any ship into Singapore waters, the master, the owner and the agent of the ship shall each be guilty of an offence and shall each be liable on conviction to a fine of not less than \$1,000 and not more than \$1 million or to imprisonment for a term not exceeding 2 years or to both.

[8/99]

(2) Subsection (1) shall not apply to the discharge of oil or oily mixture from a ship —

- (a) which is necessary for the purpose of securing the safety of a ship or saving life at sea;
- (b) if the oil or oily mixture, as the case may be, escaped from the ship in consequence of damage, other than intentional damage, to the ship or its equipment, and all reasonable precautions were taken after the occurrence of the damage or the discovery of the discharge for the purpose of preventing or minimising the escape of the oil or oily mixture, as the case may be; or
- (c) in the case of an oily mixture, if the discharge was for the purpose of combating specific pollution incidents in order to minimise the damage from pollution and was approved by the appointed authority and, where the discharge occurred in the jurisdiction of the government of a country other than Singapore, by that government.

(3) For the purposes of subsection (2), damage to a ship or to its equipment shall be taken to be intentional damage, if the damage arose in circumstances in which the master, the owner or the agent of the ship —

(a) acted with intent to cause the damage; or

(b) acted recklessly and with knowledge that damage would probably result.

(4) The Authority may, with the approval of the Minister, make regulations to exempt any ship from the operation of subsection (1), either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular descriptions of oil or oily mixtures or to the discharge of oil or oily mixtures in prescribed circumstances, or in relation to particular areas of the sea.

[7/96]

Oil residues

8. —(1) Subject to subsection (2), if any oil residues that cannot be discharged from a Singapore ship into the sea without contravening section 7 are not retained on board the ship, the master and the owner of the ship shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$1 million.

[8/99]

(2) Oil residues may be discharged from a ship to a reception facility provided in accordance with section 11.

Notification of proposal to carry noxious liquid substances

9. —(1) Where a person who proposes to export or import a noxious liquid substance proposes to do so by having that liquid substance carried in bulk in a ship, that person or the master of the ship shall, in such manner and within such time as may be prescribed, notify the Port Master or an officer designated by the Port Master of the proposal.

(2) If the Port Master or the officer designated by the Port Master is not so notified of the proposal referred to in subsection (1) and the liquid substance is carried as proposed, that person and the master of the ship shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000.

Prohibition of discharge of noxious liquid substances from ships

10. —(1) Subject to subsection (2) and any regulations made under subsection (4), if any discharge of a noxious liquid substance, or of a mixture containing a noxious liquid substance, being a substance or mixture carried as cargo or part cargo in bulk, occurs from a Singapore ship into the sea or from any ship into Singapore waters, the master, the owner and the agent of the ship shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) Subsection (1) shall not apply to the discharge of a noxious liquid substance or a mixture containing such substance from a ship —

(a) which is necessary for the purpose of securing the safety of a ship or saving life at sea;

(b) if the substance or the mixture, as the case may be, escaped from the ship in consequence of damage, other than intentional damage, to the ship or its equipment, and all reasonable precautions were taken after the occurrence of the damage or the discovery of the discharge for the purpose of preventing or minimising the escape of the substance or the mixture, as the case may be; or

(c) if the discharge was for the purpose of combating specific pollution incidents in order to minimise the damage from pollution and was approved by the appointed authority and where the discharge occurred in the jurisdiction of the government of a country other than Singapore, by that government.

(3) For the purposes of subsection (2), damage to a ship or to its equipment shall be taken to be intentional damage if the damage arose in circumstances in which the master, the owner or the agent of the ship —

(a) acted with intent to cause the damage; or

(b) acted recklessly and with knowledge that damage would probably result.

(4) The Authority may, with the approval of the Minister, make regulations to exempt any ship from the operation of subsection (1), either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular descriptions of noxious liquid substances or mixtures containing such substances or to the discharge of such substances or mixtures in prescribed circumstances, or in relation to particular areas of the sea.

PART IV

PREVENTIVE MEASURES AGAINST POLLUTION OF THE SEA

Reception facilities

11. —(1) The powers exercisable by the Authority in respect of the port shall include power to provide reception facilities for ships using the port or any terminal in Singapore.

[7/96]

(2) Any power of the Authority to provide reception facilities shall include —
(a) power to join with any other person in providing them, and reference in this section to the provision of reception facilities by the Authority shall be construed accordingly;

(b) power to arrange for the provision of such facilities by any other person;

(c) power to require every ship to use the facilities; and

(d) power to provide reception facilities outside and within the limits of the port.

(3) Subject to any directions given by the Minister under subsection (5), the Authority in respect of the port and a terminal operator in respect of his terminal shall ensure that —

(a) if the port or terminal has reception facilities, those facilities are adequate; or

(b) if the port or terminal has no reception facilities, such facilities are provided, in order to comply, for ships which may be expected to use the port or terminal for a primary purpose other than utilising reception facilities, with the provisions of any regulations made under this Act pertaining to the provision of reception facilities.

[7/96;8/99]

(4) The Authority or a terminal operator shall provide the Minister with such information as the Minister directs in respect of any reception facilities provided by or by arrangement with the Authority or the operator at the port or terminal, as the case may be.

[7/96]

(5) Where it appears to the Minister, after consultation with any organisation appearing to the Minister to be the representative of owners of ships registered in Singapore, the Authority and, where appropriate, the terminal operator, that if the port or a terminal managed by the operator —

(a) has reception facilities, those facilities are inadequate; or

(b) has no reception facilities, the port or terminal should be provided with such facilities,

in order to comply, for ships which may be expected to use the port or terminal for a primary purpose other than utilising the reception facilities, with the provisions of any regulations made under this Act pertaining to the provision of reception facilities, the Minister may direct the Authority or the terminal operator to provide or arrange for the provision of such reception facilities as appropriate.

[7/96;8/99]

(6) Any person who fails to comply with any direction given under subsection (4) or (5) within the period specified in the direction, or within any extended period allowed by the Minister (whether before or after the end of the period so specified) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day during which the offence continues after conviction.

(7) Subsections (3) to (6) shall not apply unless the port or a terminal managed by a terminal operator is —

(a) in relation to the provision of reception facilities for residues or mixtures containing oil, used by ships carrying such residues or mixtures including such ships when undergoing repair or being broken up; or

(b) in relation to the provision of reception facilities for residues or mixtures containing noxious liquid substances, used by ships carrying such residues or mixtures for the purpose of loading or unloading such substances, repair or breaking up.

[7/96;8/99]

(8) The Authority may, with the approval of the Minister, make regulations in respect of every matter relating to the provision of reception facilities and other

facilities for ships to deposit refuse, garbage, plastics or sewage and, in particular, those regulations may provide —

- (a) for fees to be levied for the use of the facilities;
- (b) for the conditions upon which ships may make use of the facilities; and
- (c) that a contravention thereof shall be punishable by a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 2 years or with both.

[7/96]

Regulations requiring the keeping of oil record books

12. —(1) The Authority may, with the approval of the Minister, make regulations requiring oil record books to be carried in all Singapore ships and in all ships in Singapore waters and requiring the master of any such ship to record in the oil record book carried by it —

- (a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed:
 - (i) the loading of oil cargo;
 - (ii) the internal transfer of oil cargo during a voyage;
 - (iii) the unloading of oil cargo;
 - (iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and dedicated clean ballast tanks;
 - (v) the cleaning of oil tanks (whether cargo or bunker fuel tanks) including crude oil washing;
 - (vi) the discharge of ballast except from segregated ballast tanks;
 - (vii) the discharge of water from slop tanks;
 - (viii) the closing of all applicable valves or similar devices after slop tanks discharge operations;
 - (ix) the closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations;
 - (x) the discharge of dirty ballast or cleaning water from oil fuel tanks;
 - (xi) the discharge overboard or disposal otherwise of bilge water, which has accumulated in machinery spaces;
 - (xii) the disposal of any oily residues (sludge); or
 - (xiii) the disposal of residues;

- (b) any event of such discharge of oil or oily mixture as is referred to in section 7 (2) or any regulations made under section 7 (4); and
- (c) in the event of accidental or other exceptional discharge of oil or oily mixture which is not referred to in section 7 (2).

[7/96]

(2) The Authority may, with the approval of the Minister, make regulations requiring the keeping of records relating to the transfer of oil to and from ships while they are in Singapore waters.

[7/96]

(3) The requirements of any regulations made under subsection (2) shall be in addition to the requirements of any regulations made under subsection (1).

(4) Any records required to be kept by any regulations made under subsection (2) shall, unless the ship is a barge, be kept by the master of the ship and shall, if the ship is a barge, be kept, in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.

(5) Regulations made under this section requiring the carrying of oil record books or the keeping of records may —

- (a) prescribe the form of the oil record books or records and the nature of the entries to be made in them;
- (b) require the person providing or keeping the oil record books or records to retain them for a prescribed period;
- (c) require that person, at the end of the prescribed period, to transmit the oil record books or records to a place or person determined by the regulations; and
- (d) provide for the custody or disposal of the oil record books or records after their transmission to such a place or person.

Regulations requiring the keeping of cargo record books

13. —(1) The Authority may, with the approval of the Minister, make regulations requiring cargo record books to be carried in all Singapore ships and in all ships in Singapore waters, being ships which carry noxious liquid substances in bulk, and requiring the master of any such ship to record in the cargo record book carried by it —

(a) the carrying out, on board or in connection with the ship, of such of the following operations with respect to a noxious liquid substance as may be prescribed:

- (i) the loading of cargo;
 - (ii) the internal transfer of cargo;
 - (iii) the unloading of cargo;
 - (iv) the cleaning of cargo tanks;
 - (v) the ballasting of cargo tanks;
 - (vi) the discharge of ballast from cargo tanks;
 - (vii) the disposal of residues to reception facilities; or
 - (viii) the discharge into the sea or removal by ventilation of residues in accordance with any regulations made under this Act;
- (b) in the event of any such discharge of any noxious liquid substance or a mixture containing such substance as is referred to in section 10 (2) or in any regulations made under section 10 (4); and
- (c) any occasion on which the noxious liquid substance or a mixture containing such substance is discharged, whether intentionally or accidentally.

[7/96]

(2) The Authority may, with the approval of the Minister, make regulations requiring the keeping of records relating to the transfer of noxious liquid substances to and from ships while they are in Singapore waters.

[7/96]

(3) The requirements of any regulations made under subsection (2) shall be in addition to the requirements of any regulations made under subsection (1).

(4) Any records required to be kept by any regulations made under subsection (2) shall be kept by the master of the ship.

(5) Regulations made under this section requiring the carrying of cargo record books or the keeping of records may —

- (a) prescribe the form of the cargo record books or records and the nature of the entries to be made in them;
- (b) require the person providing or keeping the cargo record books or records to retain them for a prescribed period;

(c) require that person, at the end of the prescribed period, to transmit the cargo record books or records to a place or person determined by the regulations; and
(d) provide for the custody or disposal of the cargo record books or records after their transmission to such a place or person.

Failure to carry record books and evidence

14. —(1) If any ship fails to carry an oil record book or cargo record book as is required under section 12 or 13, the owner, the agent or the master of that ship shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(2) Any person who fails to comply with any of the requirements imposed by section 12 or 13 or any regulations made thereunder shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(3) Any person who makes an entry in any oil record book or cargo record book carried or any record kept under section 12 or 13 which is to his knowledge false or misleading in any material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) In any proceedings under this Act —

(a) any oil record book or cargo record book carried or any record kept in pursuance of any regulations made under section 12 or 13 shall be admissible as evidence of the facts stated in it;

(b) any copy of an entry in such oil record book or cargo record book or record which is certified by the master of the ship in which the book is carried or by the person by whom the record is required to be kept to be a true copy of the entry shall be admissible as evidence of the facts stated in the entry; and

(c) any document purporting to be an oil record book or cargo record book carried or a record kept under section 12 or 13, or purporting to be such a certified copy as is mentioned in paragraph (b) shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.

Duty to report discharges of harmful substances from ships

15. —(1) If any actual or probable discharge of any harmful substance occurs in prescribed circumstances from a Singapore ship into any part of the sea or from

any ship into Singapore waters, the master of the ship shall without delay report the occurrence in such manner and to such officer as may be prescribed.

(2) It is a defence if a person charged with an offence against subsection (1) proves that he was unable to comply with that subsection in relation to the relevant occurrence.

(3) Where a discharge referred to in subsection (1) occurs and —

(a) the master of the ship is unable to comply with that subsection in relation to the occurrence; or

(b) the discharge occurs in circumstances in which the ship is abandoned, the owner, charterer, manager and operator of the ship or an agent of the owner, charterer, manager or operator of the ship shall without delay report the occurrence in such manner and to such officer as may be prescribed.

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(5) On the prosecution of a person for an offence under subsection (3), it is a defence if the person proves —

(a) that he was not aware of the relevant occurrence; or

(b) in the case of an offence to which subsection (3)(a) applies, that he neither knew nor suspected that the master of the ship concerned was unable to comply with subsection (1) in relation to the relevant occurrence.

Duty to report discharges of oil, oily mixture and substances from land or apparatus

16. If any actual or probable discharge into Singapore waters of oil, oily mixture, noxious liquid substance or a mixture containing such substance occurs from a place on land or an apparatus used for transferring oil or that substance from or to a ship, the occupier of the place on land or the person in charge of the apparatus, as the case may be, shall forthwith report the occurrence to the Port Master in the prescribed manner and, if he fails to do so, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

PART V

RECOVERY OF COSTS

Recovery of costs for removing refuse, garbage, wastes, plastics, effluents and dangerous pollutants discharged from ships

17. —(1) If any refuse, garbage, waste matter, plastics, marine pollutant in packaged form or trade effluent is discharged from any ship into Singapore waters or into any part of the sea or waters outside Singapore waters and the refuse, garbage, waste matter, plastics, marine pollutant or trade effluent subsequently drifts or flows into Singapore waters, the owner of the ship shall be liable to pay for the costs of any measure reasonably taken by the appointed authority after the discharge for the purpose of removing it and for preventing or reducing any damage caused in Singapore by contamination resulting from the discharge.

(2) Where the refuse, garbage, waste matter, plastics, marine pollutant in packaged form or trade effluent is discharged from 2 or more ships —

- (a) a liability is incurred under this section by the owner of each of them; but
- (b) the damage or cost of which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable, each of the owners shall be liable, jointly and severally with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

Recovery of costs for removing oil, oily mixture and substances discharged from ships

18. —(1) If any oil, oily mixture or noxious liquid substance is discharged from any ship into Singapore waters or into any part of the sea or waters outside Singapore waters and the oil, mixture or substance subsequently flows or drifts into Singapore waters, the owner of the ship shall be liable to pay for the costs of any measure reasonably taken by the appointed authority after the discharge for the purpose of removing it and for preventing or reducing any damage caused in Singapore by contamination resulting from the discharge.

(2) Where the oil, oily mixture or noxious liquid substance is discharged from 2 or more ships —

- (a) a liability is incurred under this section by the owner of each of them; but

(b) the damage or cost of which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable, each of the owners shall be liable, jointly and severally with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(3) The reference in this section to the measures reasonably taken after the discharge of oil, oily mixture or a noxious liquid substance for the purpose of preventing or reducing any damage caused by contamination resulting from the discharge shall include actions taken to remove the oil, mixture or substance from the water and foreshores or the taking of such other actions as may be necessary to minimise or mitigate damage to the public health or welfare, including, but not limited to fish, shellfish, wildlife, and public and private property, foreshores and beaches.

(4) This section shall not apply in relation to any discharge of —

(a) oil or oily mixture where section 3 of the Merchant Shipping (Civil Liability and Compensation for Oil Pollution) Act (Cap. 180) applies; and

(b) bunker oil where section 3 of the Merchant Shipping (Civil Liability and Compensation for Bunker Oil Pollution) Act 2008 applies.

Recovery of costs for removing oil, oily mixture and substances discharged from land or apparatus

19. If any oil, oily mixture or noxious liquid substance is discharged from any place on land or from any apparatus used for transferring the oil, mixture or substance from or to any ship (whether to or from a place on land or to or from another ship) or for any other operation, the person in charge of that apparatus or the occupier of that place, as the case may be, shall be liable to pay for the costs of any measure reasonably taken by the appointed authority after the discharge in removing or eliminating the oil, mixture or substance.

Recovery of costs from person responsible for pollution

20. Any person who puts, throws, casts or deposits or causes to be put, thrown, cast or deposited into Singapore waters any oil, oily mixture, refuse, garbage, plastics, waste matter, carcase, marine pollutant in packaged form, noxious liquid

substance or trade effluent shall be liable to pay for the costs of any measure reasonably taken by the appointed authority in removing or eliminating it.

Costs recoverable as a debt due to appointed authority

21. Any cost due from and payable by any person by virtue of section 17, 18, 19 or 20 shall be recoverable by the appointed authority or any person duly authorised by the authority to act on its behalf as a debt due to the authority.

PART VI

MISCELLANEOUS PROVISIONS

Powers of inspectors

22. —(1) An inspector may exercise the powers referred to in subsection (2) only for the purpose of ascertaining —

- (a) whether a provision of this Act or any regulations made thereunder that is applicable in relation to a Singapore ship has been complied with in respect of that ship;
- (b) whether there has been a discharge from a ship in contravention of this Act or any regulations made thereunder;
- (c) whether a provision of the Convention that is applicable in relation to a ship other than a Singapore ship has been complied with in respect of that ship; or
- (d) whether a provision of a law of a country other than Singapore giving effect to the Convention, being a provision that is applicable in relation to a ship other than a Singapore ship, has been complied with in respect of that ship.

(2) An inspector may for any of the purposes referred to in subsection (1) —

- (a) go on board a ship with such assistants and equipment as he considers necessary;
- (b) require the master of a ship to take such steps as the inspector directs to facilitate the boarding;
- (c) inspect and test any machinery or equipment of a ship;
- (d) require the master of a ship to take such steps as the inspector directs to facilitate the inspection or testing of any machinery or equipment of the ship;

- (e) open, or require the master of a ship to cause to be opened, any hold, bunker, tank, compartment or receptacle in or on board the ship and inspect the contents of any hold, bunker, tank, compartment or receptacle in or on board the ship;
- (f) require the master of a ship to produce a record book required by any regulations made under this Act to be carried in the ship or any other books, documents or records relating to the ship or its cargo that are carried in the ship;
- (g) make copies of, or take extracts from, any such books, documents or records;
- (h) require the master of a ship to certify that a true copy of an entry in a record book required by any regulations made under this Act to be carried in the ship is a true copy of such an entry;
- (i) examine, and take samples of, any substances on board a ship; and
- (j) require a person to answer questions.

(3) Any person who —

- (a) without reasonable excuse, refuses or fails to comply with a requirement made of him by an inspector in the exercise of his powers under subsection (2); or
 - (b) in answer to a question that he is required to answer under subsection (2), makes a statement that is false or misleading in a material particular,
- shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Power to deny entry and to detain ship

23. —(1) Where the Director or Port Master has reasonable cause to believe that a ship which proposes to enter the port does not comply with the requirements of this Act or any regulations made thereunder, he may deny the entry of such ship to the port.

(2) Where the Director or Port Master has reasonable cause to believe that a ship —

- (a) has incurred a liability under section 17 or 18; or
- (b) has contravened any of the requirements of this Act or any regulations made thereunder and, in the opinion of the Director or Port Master, the ship presents

an unreasonable threat of harm to the marine environment or has caused harm to such environment,
the Director or Port Master or any officer authorised in writing by the Director or Port Master may detain that ship.

(3) The Director or Port Master may release a ship detained under subsection (2) if the owner of the ship deposits with the Government or the Authority a sum of money or furnishes such security which would, in the opinion of the Director or Port Master, be adequate to meet the owner's liability under this Act.

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(4) Section 3 (1) (~~d~~) of the High Court (Admiralty Jurisdiction) Act (Cap. 123) shall be construed as extending to any claim in respect of a liability incurred by the owner of a ship under this Act.

Detained ship proceeding to sea

24. —(1) If any ship is detained under section 23 (2) and the ship proceeds to sea before it is released by the Director or Port Master, the master of the ship, the owner thereof and any person who sends the ship to sea, if that master, owner or person is party or privy to the act of sending the ship to sea, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) The Director or Port Master or any officer authorised by the Director or Port Master to detain a ship may, if he thinks it necessary, place a police officer on board as a guard (referred to in this section as a police guard).

(3) Where a ship proceeding to sea takes to sea when any officer authorised to detain the ship, police guard or inspector is on board in the execution of his duty, the owner and the master of the ship shall each be liable to pay all expenses of and incidental to the officer, police guard or inspector being so taken to sea, and also to a fine not exceeding \$2,000, or not exceeding \$200 for every day until the officer, police guard or inspector returns or until such time as would enable him after leaving the ship to return to the port from which he is taken, and the expenses ordered to be paid may be recoverable as a fine.

(4) Any police guard so placed on board a ship may take such steps as are necessary to prevent the ship from leaving the port.

(5) Any person who opposes or in any way obstructs any officer authorised to detain the ship, a police guard or an inspector shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

Sale of ship

25. Where the owner, master or agent of a ship has been convicted of an offence under the provisions of this Act or any regulations made thereunder and any fine imposed in respect of the conviction is not paid at the time ordered by the court, the court shall, in addition to any power for enforcing payment, have the power to direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Exemptions

26. —(1) This Act shall not apply to any warship, naval auxiliary or other ship owned or operated by a State (including the Government) and used for the time being, only on government non-commercial service.

(2) The Minister may in his discretion exempt any ship or person from any of the provisions of this Act or any regulations made thereunder.

(3) Any exemption granted by the Minister under subsection (2) may be granted subject to such conditions as the Minister thinks fit and the exemption shall not have effect unless those conditions are complied with.

Power to enter on lands

27. —(1) The Government may, by its officers, employees, agents or contractors, enter upon any land adjoining the sea or foreshore for the purpose of removing or eliminating any oil, oily mixture, refuse, garbage, waste matter, plastics, marine pollutant in packaged form, noxious liquid substance or trade effluent from Singapore waters.

(2) The Government shall pay compensation to the owner of the land for any permanent damage caused to the land in the exercise of the powers conferred by subsection (1).

(3) If any dispute arises as to the amount of compensation payable to the owner of such land, the dispute may be summarily determined by a Magistrate's Court or a District Court.

(4) Except as provided in subsection (2), no action shall be brought against the Government for any compensation in respect of any damage caused arising out of the exercise of the powers conferred by subsection (1).

Powers of arrest

28. —(1) The Director, the Port Master, a police officer or any person authorised in writing by the Director or Port Master, may arrest without warrant any person who has committed or whom he reasonably believes to have committed an offence under this Act or any regulations made thereunder and take him before a Magistrate's Court or a District Court, as the case may be, to be dealt with according to law.

(2) Any article concerning, by or for which an offence has been committed may be seized and taken to a police station, unless given up sooner by order of a Magistrate's Court or a District Court, until the charge is decided in due course of law.

Delegation of powers

29. The Director may appoint such officers as he may think fit for the purpose of exercising the powers conferred and performing the duties imposed on the Director under this Act and any regulations made thereunder.

Protection from personal liability

30. No act or omission by the Minister, the Director, Port Master, any officer employed in the administration of this Act or any other person acting under the direction of the Minister, the Director or Port Master shall, if the act or omission was bona fide for the purpose of executing this Act or any regulations made thereunder, subject them or any of them personally to any action, liability, claim or demand.

Evidence of analyst

31. —(1) The Director may, by instrument in writing under his hand, appoint persons who in his opinion are qualified to be analysts for the purposes of this Act.

(2) Subject to subsection (4), a certificate of an analyst appointed under subsection (1) stating that he has analysed or examined a substance and stating the result of his analysis or examination is admissible in evidence in any

proceedings for an offence under this Act as prima facie evidence of the facts stated in the certificate and of the correctness of the result of the analysis or examination.

(3) For the purposes of this section, a document purporting to be a certificate referred to in subsection (2) on its production by the prosecution shall, unless the contrary is proved, be deemed to be such a certificate.

(4) A certificate referred to in subsection (2) shall not be received in evidence in pursuance of that subsection unless the person charged has been given a copy of the certificate together with reasonable notice of the intention of the prosecution to produce the certificate as evidence in the proceedings.

(5) Where a certificate of an analyst appointed under subsection (1) is admitted in evidence under subsection (2), the person charged may require the analyst to be called as a witness for the prosecution and the analyst may be cross-examined as if he had given evidence of the matters stated in the certificate.

Court for trial of offences

32. Any offence under this Act or any regulations made thereunder may be tried by a Magistrate's Court or a District Court and that Court shall, notwithstanding the provisions of the Criminal Procedure Code (Cap. 68) and any other written law, have jurisdiction to impose the maximum penalty provided for by this Act or any regulations made thereunder.

Composition of offences

33. —(1) The Director, Port Master or any person authorised in writing by the Director or Port Master may compound any offence under this Act or any regulations made thereunder which is prescribed as a compoundable offence, by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$2,000.

(2) The Minister may make regulations to prescribe the offences which may be compounded.

Fines, etc., to be paid to Authority

33A. All fines imposed for any offence under this Act or any regulations made thereunder and all sums collected under section 33 shall be paid into the funds of the Authority.

Regulations

34. —(1) The Authority may, with the approval of the Minister, make such regulations as appear to the Authority necessary or expedient for the purposes of carrying out the provisions of this Act and for prescribing anything which may be prescribed under this Act and, in particular, for the purpose of —

- (a) giving effect to any provision of the Convention which has not been given effect to in this Act;
- (b) giving effect to any provision of the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November 1990;
- (c) giving effect to any provision of any international agreement not mentioned in paragraph (a) or (b) which relates to the prevention, reduction or control of pollution of the sea or pollution from ships;
- (d) giving effect to any international agreement which modifies any of the international agreements mentioned in paragraphs (a), (b) and (c); and
- (e) prescribing any measure which the Authority considers necessary for the prevention, control or reduction of pollution of the sea or pollution from ships.

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(2) Without prejudice to the generality of subsection (1), the Authority may, with the approval of the Minister, by such regulations —

- (a) require persons carrying on any trade, business or manufacture to install such equipment as may be prescribed by the Authority for the purpose of eliminating any oil in any trade effluent and for preventing or reducing the discharge of any trade effluent into Singapore waters;
- (b) require the owners or operators of cargo terminals, shipyards, oil refineries and oil terminals in Singapore, and such other facilities in Singapore as the Port Master may determine, to store such detergents, dispersants and equipment as the Authority may prescribe to deal with any pollution of Singapore waters;

- (c) provide for the conduct of investigations of casualties in respect of any discharge from a ship or any contravention of the provisions of this Act or any regulations made thereunder;
- (d) provide for the appointment, registration, duties and powers of MARPOL surveyors and the approval of the organisation employing such surveyors for the purposes of giving effect to Annex II to the Convention;
- (e) prescribe fees to be paid in respect of the issue or recording of any certificate, licence or other instrument or the doing of any other thing in pursuance of this Act or any regulations made thereunder;
- (f) provide for the approval of documents and the carrying out of surveys and inspections for the purpose of giving effect to any of the international agreements referred to in subsection (1)(a) to (d), or to a measure referred to in subsection (1)(e) and the issue, duration and recognition of any certificate for that purpose;
- (g) provide for the denial of entry or prohibition of proceeding to sea of any ship which does not have in force a certificate issued pursuant to any regulations made under paragraph (g); and
- (h) provide for the extra territorial application of any of the regulations to Singapore ships and to persons on board such ships.

[7/96;8/99]

- (3) Any regulations made under this section may —
- (a) make different provisions for different circumstances;
 - (b) empower any specified person to grant exemption from any provisions of the regulations;
 - (c) provide for the delegation of functions exercisable by virtue of the regulations;
 - (d) include such incidental, supplemental and transitional provisions as appear to the Authority to be expedient for the purposes of the regulations; and
 - (e) provide that a contravention thereof shall be punishable by a fine not exceeding \$20,000 or with imprisonment for a term not exceeding 2 years or with both.

[7/96;8/99]

Application to Government

35. This Act shall bind the Government.