

EXPLANATORY NOTES.

The Commonwealth of Dominica (Dominica) is an independent island State situated in the Wider Caribbean region¹ with a legal system based on the common law system. Therefore, most of the laws of the country are “British-based” laws that have been retained and utilised even after Great Britain granted the island independence approximately twenty-two years ago.

Unfortunately, however, there is no single maritime legislation to deal with maritime affairs such as the protection, preservation and control of pollution of the marine environment from ships and other means, such as, land-based activities. This has left a great lacuna in the law as far as dealing with such matters is concerned.

Notwithstanding that situation, the main thrust of the maritime policy of Dominica, like many of the other States of the Wider Caribbean Region has been to achieve and maintain safer seas and cleaner oceans. There is also a move towards improved port control and a contingency plan for the proper and safe management and upkeep of the marine environment. The government is also seeking to take action to protect the fisheries zones from harm and all types of pollution from since many of the citizens of this island State make a living from fishing and the harvest of other resources from the seas.

According to a study carried out, the ports of the Wider Caribbean Region receive an average of 63,000 ships per year². These ships generate waste which is similar, in many respects, to that generated by people on land, and such waste contain, inter alia, oil contaminated bilge water, used lubricant oil, food waste and residue, water contaminated with dangerous chemicals, garbage and sewage.

The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), in its efforts to curb the level of pollution of the seas, establishes the standards and regulations for the operational discharge of wastes at sea by ships. The need for certain types of waste reception facilities that must be placed at ports for the collection and proper disposal of these waste materials.

Over the years, Dominica has not been left out of these visits and there has been a marked increase of tourists ships visits to the island, therefore, great emphasis is placed on cleaner beaches and the sea in these areas. It has also become evident that due to this increase in tourists’ visits, there is need for safer carriage of passengers and their cargo by sea. This is also necessary to enhance and augment the tourist industry that has been and still is a great income earner for the country. There is also a need to make travel by sea much safer for citizens who are involved in what is known locally as the “hucksters’ trade.”³ In addition, this trade generates its own types of wastes and garbage and the persons engaged therein must be educated on the proper and sanitary disposal of these wastes in accordance with the provisions of MARPOL 73/78.

¹ See: Figure 1.

² International Maritime Organisation-WIDER CARIBBEAN INITIATIVE FOR SHIP GENERATED WASTE (WCISW) (1998).

³ This entails a trade where vendors transport vegetables, bananas and other such fruits and provisions to the neighbouring islands for sale.

It is important to note here that Dominica is not a signatory to the Vienna Convention on the Law of Treaties and to date, information received⁴ shows that Dominica has not acceded to the treaty. However, as a former British Associated State, Dominica has inherited the rights and obligations under this treaty by virtue of accepted rules of international law, and as a result of a declaration made to the UN by Dominica in 1982 (after independence).

In the declaration, Dominica stated that with regard to multilateral treaties which applied or extended to it as a former associated State, Dominica will continue to apply the terms of each such treaty provisionally on the basis of reciprocity until such time as it notified the depository authority of its decisions in respect of them. However, Dominica has not made any such notification, therefore, one should infer that the Convention applies provisionally. The United Kingdom signed the Convention on the 20th day of April 1970 (while Dominica was still an associated State) and ratified it on the 25th day of June 1971, they did not declare any reservations to section 27 of the Convention. Therefore, by extension, this section is binding on Dominica who has accepted the authority of this Convention in its interpretation of the CARICOM Treaty.

It is also worthy to note that Dominica has a written Constitution that is the supreme law of the State⁵, therefore, the Government through Parliament is the competent Authority that regulates the conclusion, approval or ratification of a treaty. Also, any law or treaty that has to be incorporated into national or domestic legislation must be done in accordance with the provisions of the Constitution which then make them binding on every citizen and institution in the State.

In light of the above, it must be stated that Dominica has not acceded to MARPOL 73/78, but is due to do so very soon (i.e. no later than the year 2001). For this reason, the time is very opportune for the drafting of such legislation that could assist in incorporating its provisions into national legislation. Unfortunately also, Dominica is not signatory to and has not acceded to other very important treaties such as the International Convention on the Establishment of an International Fund for Oil Pollution Damage 1971 and its Protocol of 1992 (FUND CONVENTION), therefore, an attempt is made at section 52 of the attached draft Bill to incorporate some form of insurance provisions to fill that void.

In addition, section 53 attempts to incorporate an all-encompassing provision and to provide for the coming into force of Annex VI of MARPOL and other provisions that would apply to Dominica when it becomes a signatory. It must also be noted that certain provisions for discharge of waste and harmful substances and certain specifications of ships to which this Act applies but are not specified therein could be caught by these provisions.

In conclusion, it is important to note that since the Constitution is the supreme law of the land, for any law or other legislative enactment to have binding force, it has to be published in the Government Official Gazette, after having been legislated upon by the Parliament. Therefore, this draft Bill will have to be dealt with in accordance with the law which will serve to incorporate the provisions of MARPOL 73/78 into the national legislation of Dominica. This would be a “giant step” in addressing the very important

⁴ Information received from the Ministry of Foreign Affairs (Dominica).

⁵ See sec. 117 of THE CONSTITUTION OF THE COMMONWEALTH OF DOMINICA-ENACTED AS SCHEDULE 1 TO THE DOMINICA CONSTITUTION ORDER 1978 (S.I. 1978 NO.1027 (UK)).

area of maritime law and the protection and preservation of the pristine marine environment of our “Nature Island” as Dominica is known locally and advertised internationally.

2000

PREVENTION OF POLLUTION FROM SHIPS ACT.

COMMONWEALTH OF DOMINICA.

ACT NO. OF 2000

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2000 PREVENTION OF POLLUTION FROM SHIPS ACT

COMMONWEALTH OF DOMINICA

ACT NO. OF 2000

**A
BILL
FOR**

**AN ACT TO IMPLEMENT THE INTERNATIONAL CONVENTION
FOR THE PREVENTION OF POLLUTION FROM SHIPS
(MARPOL 73/78) TO BE KNOWN AS THE DOMINICA
PREVENTION OF POLLUTION FROM SHIPS ACT TO
PROTECT AND CONTROL POLLUTION OF THE MARINE
ENVIRONMENT OF DOMINICA AND FOR PURPOSES
ANCILLIARY THERETO.**

(Gazetted ,2000.)

**BE IT ENACTED by the Parliament of the Commonwealth of Dominica
as follows :**

PART I-PRELIMINARY

Short Title 1. This Act may be cited as—

**THE PREVENTION OF POLLUTION FROM SHIPS
ACT.**

Interpretation 2 (1). In this Act, unless the context or subject matter otherwise
requires —

“accident” includes the breaking apart, collision, or stranding of a vessel and the dumping, leaking or spilling of oil, harmful or other noxious liquid substances into Dominican territorial waters;

“Administration” means the Government of a State under whose authority a ship is operating or whose flag the ship is entitled to fly;

“agent” includes in relation to a ship, a person employed by or acting on behalf of the owner, a captain, or any other person vested with a specific authority by the owner;

“Authority” means the authority designated under Part VIII of this Act to be entrusted with the marine enforcement or such other agency or person as the Authority may duly designate to act on its behalf in respect of any specific provision of the Act;

“authorized officer” means any person authorized by the Authority or the Minister to exercise the powers or perform the duties in respect of which the expression is used; and shall include members of the Customs and Excise department , the Coast Guard , and the Police service;

“BCH CODE” means the Code for the Construction and Equipment of Ship Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.20(22),as may be amended and adopted by the Organization and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix in an Annex;

“cargo-associated waste” means all materials which have become waste as a result of use on board a ship for cargo stowage and handling and includes cardboard and boxes, dunnage ,lining and packaging materials, papers, plywood (packaging and used) ,steel and wire strapping or any other such materials ;

“cargo-residue” means remnants in small of any cargo material on board a ship that cannot be in proper cargo holds, that is, loading excess and spillage which remains in cargo holds and elsewhere after unloading procedures are completed, that is, unloading residual and spillage;

“Cartagena Convention” means the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region done at Cartagena de Indias, 1983;

“chemical tanker” means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an oil-tanker as defined in this Act when carrying a cargo or part of a cargo of noxious liquid substances in bulk ;

“clean ballast” means the ballast in a tank which since oil was last carried therein , has been so cleaned that effluent therefrom, if it were discharged from a ship which is stationary , into clean calm water on a clear day would not produce visible traces of oil on the surface of the water or on adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines;

“combination carrier” means a ship designed to carry either oil or solid cargoes in bulk ;

“contaminated rags” means rags which have been saturated with a substance defined as a harmful substance under this Act;

“contaminated waste” includes all waste that contains food, agricultural products or other such products, the importation of which is prohibited or restricted under the laws of Dominica;

“crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes:

- (a) crude oil from which certain distillate fractions may have been removed; and
- (b) crude oil to which certain distillate fractions have been added;

“crude oil tanker” means an oil tanker engaged in the trade of carrying crude oil;

“dangerous substance” means a substance listed in Chapter 17 of the IBC Code having against it in column “d” and entry “S”;

“discharge” means any release howsoever caused from a ship and includes any emitting, emptying, disposal, escape, leaking, pumping, or spilling; but does not include dumping within the meaning of the London Convention or release of harmful substances directly arising from the exploitation, exploration, and

associated offshore processing of seabed minerals or release of harmful substances for the purposes of legitimate scientific research into pollution abatement and control;

“document” includes a book, record, register, tape recording, any form of computer input or output, and any other material whether produced electronically, manually, mechanically or by any other means;

“domestic waste” means all types of food wastes, sewage and wastes generated in the living spaces onboard a ship;

“Dominica” means the Commonwealth of Dominica;

“Dominican ship” means a ship registered in Dominica in accordance with the Registration of Ships Act, Chapter 48:01, or is otherwise, entitled to fly the flag of Dominica;

“Dominican territorial waters” means the Contiguous Zone (to the extent permissible under the provisions of the United Nations Convention on the Law of the Sea, signed at Montego Bay, Jamaica, on 10 December 1982 (UNCLOS 1982)) the Exclusive Economic Zone, the Fishery Zone, internal waters and Territorial Sea as defined in the TERRITORIAL SEA, CONTIGUOUS ZONE, EXCLUSIVE ECONOMIC AND FISHERY ZONES ACT, Chapter 1:11 of the Laws of Dominica;

“en route” means that a ship is underway at sea on a course which as far as is practicable for navigation purposes will cause any discharge to be spread over as great an area of the sea as is reasonably practicable;

“existing ship” means a ship which is not a new ship;

“food waste “ means any spoiled or unspoiled victual substances, such as dairy products, food particles and scraps, fruits, meat products, poultry, vegetables, and all other materials contaminated by such wastes generated aboard ship, principally in the galley and dining areas;

“from the nearest land”, in respect of Dominica, means from the baseline of the territorial sea of Dominica;

“garbage” includes all kinds of domestic and operational waste, excluding fresh fish and parts thereof, generated during the normal operations of the ship and liable to be disposed of continuously or

periodically; but does not include small quantities of food wastes for the specific purpose of feeding fish in connection with fishing or tourists operations;

“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 those substances which are carried by sea in packaged form and identified as marine pollutants in the IMDG CODE and are subject to control under this Act;

“holding tank” means a tank used for the collection and storage of sewage;

“IBC CODE” means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC. 19 (22), as may be amended and adopted by the Organization and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an Annex;

“IMDG Code” means the International Maritime Dangerous Goods Code adopted by the IMO by Resolution A.716 (17) as amended from time to time by the Maritime Safety Committee of the IMO;

“IMO” means the International Maritime Organization;

“importer”, in respect of this Act, includes the owner or any other person for the time being possessed of or beneficially interested in any goods at and from the time of importation thereof, and also a person who signs a document relating to imported goods required to be signed by the Customs laws or any other law to be signed by an importer;

“incident” means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance;

“instantaneous rate of discharge of oil content” means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant;

“IOPP Certificate” means an International Oil Pollution Prevention Certificate issued under the provisions of MARPOL;

“London Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter done at London on 13th November 1972, as amended;

“maintenance waste” means materials collected by the deck department and engine department while maintaining and operating the vessel, such as deck sweepings, machinery deposits, scrapped paint, soot, oily rags and wiping wastes;

“MARPOL” means the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto and Protocols and Annexes thereto, and any amendments published by IMO that the Minister may by Order declare to be in effect for Dominica;

“MARPOL Member State” means a State which has ratified or acceded to, and has not subsequently denounced MARPOL;

“master” in relation to a ship means a person having command or charge of that ship, other than a pilot during the performance of his official duties;

“Minister” means the Minister for Ports and Tourism to whom responsibility for shipping and other maritime affairs is designated;

“new ship” includes a ship for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, on or after the date of entry into force of this Act;

“NLS Certificate” means the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under the provisions of MARPOL;

“noxious liquid substance” means the substances in Appendix II of Annex II of MARPOL or provisionally assessed under regulation 3 thereof including any categorizations adopted and published by IMO;

“oil” means petroleum in any form including coal tar, crude oil, fuel oil, sludge, oil refuse and refined oil products and, without limiting the generality of the foregoing, includes oil of any description or spirit product from oil whether carried on board a ship as cargo or bunker and any other categorization adopted by IMO as such;

“oil fuel” means any oil used as fuel in connection with the propulsion and auxiliary machinery of a ship in which such oil is carried;

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

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes –

- (a) a combination carrier;
- (b) a chemical tanker as defined under the provisions of MARPOL when it is carrying a cargo or part cargo of oil in bulk ;and
- (c) a gas carrier as defined in regulation 3.20 of chapter II-1 of SOLAS 1974, when it is carrying a cargo or part cargo of oil in bulk;

“Organization” means the International Maritime Organization;

“owner” when used in relation to a ship ,includes a part owner, charterer, operator, managing owner, consignee or mortgagee in possession thereof or a duly authorized agent of such person;

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

“pollution” means the introduction directly or indirectly by human activity of waste into the sea which results or is likely to result in such deleterious effects as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

“reception facility” means any facility which is provided at a port terminal for the reception of garbage, noxious liquid substances, oil, oily mixtures and other residues, and other such waste materials including harmful substances carried by sea in packaged form and sewage ;

“required certificate” includes the IOPP Certificate, NLS Certificate and the SPP Certificate, and any other special certificate needed under this Act

“sensitive coastal area” means any specially designated area of the environment, including the land, the area beneath the land surface,

atmosphere, climate, surface water, ground water, sea, marine and coastal areas, seabed, wetlands and natural resources within Dominica's territorial sea which may be from time to time recognized by order of the Minister for Agriculture and the Environment as subject to special protection for recognized technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic;

"sewage" means sewage as defined by Regulation 1 of Annex IV of MARPOL including any amendments thereto published by IMO;

"ship" includes a vessel of any type whatsoever operating in the marine environment and includes, without limitation, pleasure crafts, fishing vessels, hydrofoil boats, air cushion vehicles, submersibles, floating craft and fixed or floating platforms;

"ship owner" has the same meaning as "owner";

"slop tank" means a tank specifically designated or designed for the collection of tank draining, tank washing and other oily mixture and residues;

"SOLAS 1974" means the International Convention for Safety of Life at Sea, 1974, and its Protocol of 1978 as amended;

"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;

"SPP Certificate" means Sewage Pollution Prevention Certificate and includes an International Sewage Pollution Prevention Certificate issued under the provisions of MARPOL;

"territorial sea" in respect of Dominica has the same meaning as in the TERRITORIAL SEA, CONTIGUOUS ZONE, EXCLUSIVE ECONOMIC AND FISHERY ZONES ACT (Chapter 1:11); and in respect of any other State, means the territorial sea of that State as recognized in international law;

"undue delay" means a delay that is unreasonable and unnecessary in light of the particular conditions of a ship's cargo, destination and schedule, and in light of any offence committed by that ship or of the purpose and scope of the investigation, inspection or other for detaining the ship;

“waste” means useless, unneeded or superfluous materials and matter of any description or form generated by or found on a ship or other such materials and matter produced or manufactured by any person or thing.

(2) A thing is deemed to be done in good faith within the meaning of this Act when it is done honestly and reasonably, whether it is done negligently or not.

Object 3. The object of this Act is to prevent the accidental, deliberate or negligent release of oil and other harmful and noxious substances from ships for the protection and preservation of the marine environment and the conservation of the natural resources therein and to control and regulate all maritime activities ancillary thereto.

PART II-APPLICATION

Application 4. (1) Unless otherwise specified, this Act shall apply to-

- (a) all Dominican ships;
- (b) all ships operating within Dominican territorial waters, including any foreign ship whose flag State is not a MARPOL Member State.

(2) Notwithstanding subsection (1) this Act shall not apply to-

- (a) ships of the Coast Guard, the Police Service or the Customs and Excise Department of Dominica which are engaged in government, non-commercial service; and
- (b) warships or other ships owned or operated by a State and used for the time being only on government non-commercial service.

(3) For the purposes of this section, ships that are not MARPOL Member State ships shall not be granted more favorable treatment than is provided for under MARPOL.

Prohibition of Discharge 5.(1) Except as provided for under the provisions of MARPOL, no person shall discharge or cause to be discharged into the sea any –

- (a) garbage, noxious liquid substances, oil, oily mixture sewage or other harmful substances; or
- (b) other chemicals or substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing a condition of discharge specified by this Act or other provisions of the MARPOL as they relate to Dominica;

- (c) food waste except it has been passed through a comminuter or grinder and made as far as practicable from the nearest land, but in any case is prohibited if the distance from the nearest land is less than 3 nautical miles.
- (2). Subject to subsection (1), disposal of food wastes from fixed or floating platforms engaged in the exploration, exploitation, and associated offshore processing of sea bed minerals or from ships when alongside or within 500 metres of such platforms is permitted provided that:
 - (a) food wastes are first passed through a comminuter or grinder and discharged from fixed or floating platforms more than 12 nautical miles from land;
 - (b) such comminuted or ground food wastes referred to in paragraph (a) shall be capable of passing through a screen with openings no greater than 25 millimeters.
- (3). Without prejudice to the generality of subsection (1) above the Minister may by regulations make, in relation to the transfer of cargo, stores, bunker fuel or ballast between ships while within Dominican territorial waters, such provisions as he considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the marine environment or to natural resources.

Liability
for
Discharge

- 6.(1) Where, as a result of any occurrence or incident any oil, oily mixture, noxious liquid substance or other harmful substance is discharged or escapes from a ship, the owner of the ship shall be liable for –
- (a) any damage caused outside the ship in the territory of Dominica by contamination resulting from the discharge or escape; and
 - (b) the cost of any measure reasonably taken after the discharge or escape for the purpose of preventing or minimizing any damage so caused in the territory of Dominica by contamination resulting from the discharge or escape; and
 - (b) any damage caused in the territory of Dominica by any measures to be taken.

(2) Where as a result of any occurrence or incident, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might be caused if there were a discharge or escape from the ship, then(except as otherwise provided by this Chapter) the owner of the ship shall be liable for the cost of any measures reasonably taken for the purpose of preventing or minimizing any such damage.

Duty to
Report.

- 7 (1) If any noxious liquid substance ,oil, oily mixture, garbage, sewage or other harmful substance is –
- (a) discharged from a ship into Dominican territorial waters; or
 - (b) found to be escaping or to have escaped from a ship into such waters ,
- the owner or master of the ship shall forthwith report the occurrence to the

Authority.

(2) A report made under subsection (1) above shall state whether the occurrence falls within subsection (1) (a) or (b) .

(3) If a person fails to make a report as required by this section shall be guilty of an offence.

- Defenses 8. (1) It is a defense where a person charged under section 6 proves on a balance of probability that such discharge –
- (a) was reasonably necessary for the purpose of ensuring the safety of the ship ;
 - (b) was necessary for saving life or preventing damage to any ship or cargo ;or
 - (c) resulted from damage to the ship’s structure, equipment, fitting or arrangement –
 - (i) provided all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge; and
 - (ii) except if the master or owner acted either with intent to cause damage, or recklessly and with knowledge that the damage would probably result; or
 - (d) the discharge was approved by the Authority or Minister when being used for the purpose of combating specific pollution incidents or in order to minimize damage from pollution, unless the Court is satisfied that the discharge was not necessary for that purpose or was not a reasonable step to take in the circumstances.
- Reception Facilities and Costs 9. (1) The Authority shall provide at all ports adequate and appropriate waste reception facilities for oil residues and other residues from ships loading or unloading at such ports or otherwise operating within Dominican territorial waters.
- (2) The costs of such facilities shall be borne by the government or where appropriate by the Authority.
- Penalty. 10. Any person who contravenes a provision of this Part commits an offence and on summary conviction is liable to a fine not exceeding five thousand dollars and to imprisonment for a term not exceeding one year.

PART III- SURVEYS AND INSPECTIONS.

- Authority for Inspection 11. The Authority shall establish the criteria and requirements for inspecting, monitoring and surveying all ships to which this Act applies.

and
Surveys.

Survey
Requirements.

12. A Dominican ship which is required to comply with the provisions of this Act and which is engaged in voyages to ports or offshore terminals under the jurisdiction of other MARPOL member States shall be subject to the following surveys and inspections by a qualified surveyor as authorized by the Authority-

- (a) an initial survey before the ship is put in service or before a required certificate is issued for the first time, which shall include a complete survey of its structure, equipment systems, fittings, arrangements and materials;
- (b) a periodical survey at intervals which may be specified by the Authority but not exceeding five years which shall be such as to ensure that the ship's equipment, fittings, structure, systems, arrangements and other materials continue to fully comply with the provisions and requirements of this Act;
- (c) (i) a minimum of one intermediate survey during the period of validity of any required certificate which shall be such as to ensure that all provisions and requirements under the Act are complied with;
(ii) in cases where only one such intermediate survey is carried out in any one required certificate validity period, it shall be held not before six months prior to the , nor later than six months after the half-way date of the required certificate period of validity;
- (d) where it is a ship carrying liquid substances in bulk ,an annual survey within three months before or after the day and month of the date of issue of the required certificate and which shall include a general examination to ensure that the structure, fittings, arrangements and materials remain in all respects satisfactory for the service for which the ship is intended. Such annual survey shall be endorsed on the required certificate;
- (e) (i)an additional survey shall be made when necessary, or whenever an important or substantial renewal or repair has been carried out on the ship to ensure that the materials and workmanship of the renewal or repair are satisfactory and that the ship is fit to be issued with the required certificate and to proceed to sea without presenting a threat of damage or harm to the marine environment;
(ii) a record of all surveys and inspections shall be endorsed by the surveyor on the required certificate to denote that all necessary regulations and requirements have been complied with.

Remedial
Provisions

13.(1). Where, after a survey or inspection is carried out by a nominated surveyor or recognized organization as specified in section 12 and the Authority is notified by such surveyor or organization that the ship or its equipment does not correspond substantially with the particulars of the required certificate, or is such that the ship is not fit to proceed to sea without

presenting an unreasonable threat of harm to the marine environment the Authority shall-

- (a) require the master to take the necessary remedial action; and
- (b) where applicable take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest shipyard available without presenting an unreasonable threat to the marine environment.

Cargo
Identification
and
Stowage
.

14. (1) All packages used in the conveyance of cargo or harmful substances carried by sea in packaged form shall be adequate, durable and proper to minimize or prevent hazard to the marine environment.
- (2). Any package containing a harmful substance or noxious substance shall be durably marked and labeled with its correct technical name so as to indicate that the substance has marine pollution qualities.

(3) Any marking, labeling or other identification placed on such packages referred to in this section shall be such that all information so placed on the packages shall still be identifiable after they have been submerged in sea water for at least three months .

(4) The durability of the materials and of the surface of the packages used shall be taken into account in considering the suitable marking, labeling and identification of such substances.

(5) Any package containing small quantities of harmful substances may be exempted from the marking requirements in accordance with the specific exemptions provided for in the IMDG CODE.

(6) Any harmful substance to which this Act applies shall be properly secured, stored and stowed so as to prevent any damage, harm or hazard to the marine environment without endangering or impairing the safety of the ship and persons on board.

Penalty

15. A person who contravenes a provision of these sections commits an offence and, is liable-

- (a) upon summary conviction as an individual,
 - (i) for the first offence, to a fine of not more than five thousand dollars or to imprisonment for a term of not more than one year, or to both such fine and imprisonment, or
 - (ii) for a second or subsequent offence to a fine of not more than ten thousand dollars, or to imprisonment for a term of not more than five years, or to both such fine and imprisonment;
- (b) upon conviction on indictment as a corporation or other body of persons-
 - (i) for the first offence to a fine of not less than ten thousand dollars nor more than fifteen thousand dollars, or

- (ii) for a second or subsequent offence to a fine of not less than twenty thousand dollars, and every director or other officer of the corporation or every senior officer of that other body shall be deemed to have contravened a provision of these sections and be liable in the same manner as an individual, but trial shall be on indictment.

PART IV- CERTIFICATION.

Form of Certificate.	16. A required certificate to be issued under this Act shall be in the form prescribed in Schedule V of this Act.
Issuance	<p>17 (1) When a survey is carried out in accordance with section 12, and the Authority is satisfied that all regulations and requirements have been complied with, the Authority or any person authorized by it shall issue the required certificate to the ship so surveyed.</p> <p>(2) The Authority may , in writing, request a MARPOL Member State to survey a Dominican ship and issue a certificate to such a ship; a certificate so issued shall have the same force and receive the same recognition in Dominica as a required certificate issued under this Act.</p> <p>(3) The Authority may, at the written request of a MARPOL Member State, cause a ship of that State to be surveyed, and if it is satisfied that all the regulations and requirements have been complied with, shall issue or authorize the issue of a required certificate to such ship in accordance with the provisions of this Act.</p> <p>(4) A certificate so issued under subsection (3) shall contain a statement to the effect that it has been issued at the request of the Government of that MARPOL member State and a copy of that certificate together with a copy of the survey report shall be submitted within a reasonable time to the Government that requested the survey.</p> <p>(5) A required certificate shall not be issued to any ship which does not fly the flag of a MARPOL member State.</p> <p>(6) The Authority shall assume full responsibility for a required certificate issued by a person or organization duly authorized by the Authority to issue such a certificate.</p>
Validity and Renewal.	18. Unless otherwise specified by the Authority a required certificate issued under this Act shall be valid for a period of five years from the date of its issue and may be renewed for successive periods of five years provided that the ship remains substantially in its original form and conditions during these periods and in service as a Dominican ship.
Transfer of Flag.	19 (1) When a ship is transferred from a MARPOL Member State to the Dominican flag a new required certificate shall be issued only where –

(a) any such certificate so issued by the MARPOL Member State has ceased to be valid ;and

(b) the Authority is fully satisfied that the ship meets all the regulations and requirements as provided for under this Act.

(2) Upon the transfer of a Dominican ship to the flag of another MARPOL Member State , where such State so requests within a reasonable time after the transfer took place ,a copy of the required certificates carried by the ship before the transfer shall be transmitted by the Authority to the Government of that State.

Suspension,
Revocation
or refusal
to renew.

20. The Authority or a person duly authorized by it may refuse to renew or may revoke, suspend or withdraw a certificate issued under this Act, if the Authority is reasonably satisfied that –

(a) there has been a breach of any specified regulation or requirement;

(b) remedial action as required under section 13 has not been undertaken; or

(c) there are other circumstances and reasons which in the view of the Authority warrant a refusal to renew, or a revocation, suspension or withdrawal .

Penalty.

21. (1) A person who –

(a) contravenes; or

(b) counsels, procures or negligently induces another to contravene a provision of this Part commits an offence and is liable on summary conviction to a fine of not less than five thousand dollars or more than ten thousand dollars or to imprisonment for a period of one year or to both such fine and imprisonment.

PART V - RESPONSIBILITIES, RIGHTS AND DUTIES OF MASTER AND OWNER.

Prohibition
on alteration
of certified
ship.

22.(1) No person shall make any alterations to the equipment and structure of a Dominican ship which has been duly surveyed and certified by the Authority while such ship is out at sea or during a voyage away from Dominica.

(2) Nothing in subsection (1) shall be interpreted as prohibiting an alteration to a certified Dominican ship during a voyage at sea, where such alteration is reasonably necessary to ensure the safety of the ship, or to protect property or secure its cargo or to save life at sea or is the direct replacement of a faulty equipment and fittings.

(3) A full, complete and detailed report of any such alteration undertaken under subsection (2) shall immediately or within a reasonable time be conveyed to the Authority by the master or owner.

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| Master to maintain condition of ship during voyage. | 23. During each voyage the master of a Dominican ship shall take every measure and precaution to maintain and keep the ship in a seaworthy condition and fit to navigate without presenting an unreasonable threat of damage or harm to the marine environment. |
| Master to have on board maintained Record Books. | 24. The master of a Dominican ship shall have and keep onboard the ship all necessary Record Books which shall be valid and maintained in accordance with the provisions of this Act and MARPOL as amended from time to time by the IMO. |
| Responsibility of master and owner | 25. The master and owner of a Dominican ship shall be responsible to ensure that all necessary and appropriate certificates and other documents which pertain to the ship are kept on board the ship and shall always be valid and immediately available for inspection by the Authority or any person duly authorized by it. |
| Penalty | 26. A person who fails or neglects to comply with a provision of this Part commits an offence and on summary conviction is liable to a fine of not more than ten thousand dollars or to imprisonment for a period not exceeding five years or to both such fine and imprisonment. |

PART VI-RECORDS.

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| Oil Record Book. | 27 (1) The owner of an oil tanker of 100 gross tons which operates in Dominican territorial waters shall provide such oil tanker with an Oil Record in which shall be recorded all entries of machinery space, cargo and ballast operations.

(2) The master of an oil tanker of 400 gross tons and over which operates in Dominican territorial waters shall provide such oil tanker with an Oil Record Book in which shall be recorded its machinery space operations.

(3) The Oil Record Book shall be in the form prescribed in Schedule III of this Act in which complete and full entries shall be recorded on each occasion whenever of the following operations are carried out-
(a) ballasting or cleaning of fuel oil tanks which shall include the discharge of dirty ballast or cleaning water from such tanks; |
|------------------|---|

- (b) disposal of oil residues, including sludge and bilge water which has accumulated in the machinery spaces;
- (c) loading or unloading of oil cargo and internal transfer during the voyage ;
- (d) ballasting and cleaning of cargo tanks and dedicated clean ballast tanks and including crude oil washing;
- (e) discharge of ballast except from segregated ballast tanks;
- (f) discharge of water from slop tanks and closing of all applicable valves or similar devices after slop tank discharge operations ;
- (g) closing of all valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations; and
- (h) disposal of all residues.

(4) Where there is an accidental or other exceptional discharge of oil or oily mixture not excepted by this Act or any other provisions of MARPOL, a statement of the circumstances of and the reason for such discharge shall be made in the Oil Record Book and each entry shall be promptly, completely and fully recorded and signed by the appropriate officer which shall be endorsed by the master by signing each page.

(5) The master shall keep the Oil Record Book in a place on board the ship where it shall be available for inspection at all times and shall be preserved for a period of no less than three years after the last entry was made therein.

(5A) Notwithstanding the provisions of subsection 5, a person shall not be charged with an offence if it is proven that the Oil Record Book was unavoidably lost or damaged by fire on the ship or by perils of the sea during a storm at sea or act of God or such other natural disaster during the specified period.

(6) (a) A person authorized by the Authority may inspect the Oil Record Book on board-

- (i) a Dominican ship; or
 - (ii) any other ship to which this Act applies while that ship is in a Dominican port or other Dominican territorial waters;
- (b) A competent authority of the Administration of a MARPOL Member State may inspect and make copies of any entry in the Oil Record Book of any Dominican ship to which this Act applies while that ship is in a port or offshore terminal or other waters under the jurisdiction of that State; and
- (i) may require the master of the ship to certify that any copy so made is a true and authentic copy of such entry and the master shall so certify,
 - (ii) a copy so made shall be admissible in a judicial proceeding in Dominica as evidence of the facts stated therein.

(7) The Authority shall decide when the owner of an oil tanker of less than 100 gross ton shall provide such oil tanker with an appropriate Record Book.

Cargo
Record
Book 28 (1) The owner of a ship carrying noxious liquid substances in bulk and operating in Dominican territorial waters shall provide the ship with a Cargo Record Book in the form prescribed in Schedule III of this Act; a failure to provide such Cargo Record Book shall be an offence .

(2) The master or other person duly authorized by him shall make full, legible, detailed and complete entries in the Cargo Record Book during the following operations of the ship-

- (a) loading or internal transfer of cargo;
- (b) unloading of cargo ;
- (c) ballasting and cleaning of cargo tanks;
- (d) discharge of ballast from cargo tanks;
- (e) disposal of residue to reception facilities ; and
- (f) discharge into the sea or removal by ventilation of residue in accordance with the provisions of MARPOL.

(3) In the event of a discharge of a noxious liquid substance in bulk, or effluent containing a mixture of any such substances ,whether accidental or intentional, an entry shall be made in the Cargo Record Book detailing fully the circumstances of and the reasons for the discharge.

(4) The master shall keep the Cargo Record Book in a place on board the ship where it can be readily and expeditiously available for inspection all times and such Cargo Record Book shall be retained for a period of not less than three years after the last entry has been made therein.

(5) Notwithstanding the provisions of subsection (4), a person shall not be charged with an offence if it is proven that the Cargo Record Book was unavoidably lost or damaged by fire on the ship or perils of the sea during a storm at sea or such other natural disasters or act of God during the specified period.

(6) (a) The Authority or its duly authorized officers may inspect the Cargo Record Book on board a Dominican ship or any other ship while such ship is in a Dominican port.

(b) A competent authority of the Administration of a MARPOL Member State may inspect and make its observations in the Cargo Record Book on a Dominican ship in port, offshore terminal or other waters under the jurisdiction of that State.

(c) The competent authority may make a copy of any entry in the Cargo

Record Book and may require the master or other duly authorized officer of the ship to certify the copy as a true copy of such entry and the person so required shall sign the copy.

(d) A copy so made and certified as a true copy shall be admissible in any judicial proceeding in Dominica as evidence of the facts stated therein.

(e) Any inspection of a Cargo Record Book and the taking of a certified copy shall be performed as expeditiously as is reasonably possible without causing undue delay to the ship.

Garbage
Record
Book.

29 (1) The owner of a ship of 150 gross tons and over and which is certified to carry 15 or more passengers engaged in voyages in Dominican territorial waters and to ports or offshore terminals of other MARPOL Member States and every fixed or floating platform engaged in exploration or exploitation of the sea bed in Dominican territorial waters shall provide such ship with a Garbage Record Book which shall be in the form prescribed in Schedule III of this Act.

(2) The master or other duly authorized officer on board the ship shall record every detail fully and completely in the Garbage Record Book of every discharge and incineration operation carried out at the time of such discharge and every entry shall be signed by the master of the ship.

(3) A person who carries out a discharge or incineration shall include the date and time, the position of the ship, a full and detailed description of the garbage, where possible, and the estimated amount discharged or incinerated.

(4) The master or owner of the ship shall keep the Garbage Record Book onboard the ship and in such a place so as to be expeditiously available for inspection and it shall be preserved for a period of not more than two years after the last entry is made therein.

(5) The provisions of section 28 subsection 5 shall apply mutatis mutandis to the Garbage Record Book as they apply to the Cargo Record Book.

(6) The Authority may inspect the Garbage Record Book on board a Dominican ship or any other ship while it is in a Dominican port or operating in Dominican territorial waters.

(7) (a) A competent authority of the Government of a MARPOL Member State may inspect the Garbage Record Book on board a Dominican ship while the ship is in its port, offshore terminal or other waters under its jurisdiction, and may make copies of any entry in the Garbage Record Book and require the master to certify that the copy is a true copy of such an entry and the master shall make such certification;

(b) where the master has certified a copy so made in paragraph (a) it shall be admissible in any judicial proceeding in Dominica as evidence of the facts stated therein;

(c) a person who is carrying out an inspection and taking a certified copy of any entry from the Garbage Record Book shall act as expeditiously as is reasonably possible without causing undue delay to the ship.

Procedure

30 (1) The master and owner of a ship carrying noxious or other harmful

and
Arrangement
Manual substances that makes voyages to Dominica or in any other way navigates or operates in Dominican territorial waters must keep on board the ship a Procedures and Arrangement Manual that complies with standards set by the IMO.

(2) The Procedures and Arrangement Manual shall be –

- (a) written in English and where the official language is not English a certified translation in the English language must be provided; and
- (b) kept on the ship to be available for inspection when so required by the Authority or its authorized officer.

Penalty 31. A person who fails or neglects to comply with a provision of this Part commits an offence and on summary conviction is liable to a fine of not less than ten thousand dollars or more than fifteen thousand dollars or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

PART VII - CONSTRUCTION, DESIGN, EQUIPMENT AND OPERATION OF VESSEL.

Oil 32. A noxious liquid substance under Category C or D identified as oil or oil-like substance under the criteria set by the IMO, may be carried in an oil tanker and be discharged in accordance with Schedule II, provided all the following provisions are complied with, that is –

- (a) the ship carries an IOPP Certificate which is endorsed to indicate that the ship carries oil-like substances in conformity with this section and the endorsement includes a list of oil-like substances the ship is allowed to carry;
- (b) in the case of Category C substances, the ship complies with the ship type 3 damage stability requirements of the IBC CODE;
- (c) the oil content metre in the oil discharge monitoring and control system of the ship is approved by the Authority for use in monitoring the oil-like substance to be carried.

Harmful
sub
stances. 33. (1) The owner of a Dominican ship or other ship which operates in Dominican territorial waters carrying harmful substances in bulk shall ensure that such ships are designed, constructed, equipped and operated so as to prevent or minimize the uncontrolled discharge of such substances into the marine environment.

(2) The construction of a Dominican chemical tanker or other chemical tanker which make voyages to or otherwise operate in Dominican territorial waters shall comply with the requirements of the IBC CODE

(3) In respect of Dominican ships other than chemical tankers carrying Category A, B or C substances in bulk, the Authority shall establish

appropriate provisions and measures on the Guidelines developed by the IMO.

- Sewage. 34. Where a Dominican ship or other ship which navigates on a regular basis or otherwise operates in Dominican territorial waters is equipped or fitted with –
- (a) a sewage treatment plant and such plant shall meet the operational standards and test methods as developed by the IMO and certified by the Authority;
 - (b) a holding tank , the capacity of which shall be to the satisfaction of the Authority for the retention of sewage ,having regard to the number of persons onboard ,the operation of the ship and other relevant factors and there shall be provided on the holding tank a means by which the amount of its contents can be indicated and monitored;
 - (c) a comminuter and disinfecting system which shall be of a type that is in keeping with the IMO standards and approved by the Authority.
- Maintenance. 35. The master and owner of every ship to which this part applies shall ensure that the ship is maintained and kept in a condition so as to prevent and minimize the uncontrolled discharges into the sea and that the ship remains in a seaworthy condition and fit to proceed to sea without presenting an unreasonable threat of damage or harm to the marine environment.
- Penalty 36. A person who contravenes a provision of this Part commits an offence and is and is liable on summary conviction-
- (a) for a first offence , to a fine of not less than five thousand dollars or more than ten thousand dollars and to imprisonment for a period not exceeding one year; and
 - (b) for a second or subsequent offence ,to a fine of not less than ten thousand dollars nor more than fifteen thousand dollars and to imprisonment for a period not less than five years.

PART VIII- ENFORCEMENT.

- Designa-
tion of
Authority
to be
entrusted
with
marine
enforcement
37. (1) Notwithstanding the provisions of the Dominica Port Authority Act, Chap.50:01, the Dominica Port Authority shall be entrusted with marine enforcement under this Act and the definition given to the word “Authority” in the Port Authority Act shall be used in conjunction with the interpretation of “Authority” in this Act.
- (2) The Port Authority Act and the Prevention of Pollution from Ships Act shall be used in conjunction with each other for the effective control of the prevention of pollution of the marine environment of Dominica.
- (3) Where there is a conflict between the provisions of this Act and the Dominica Port Authority Act or any other written law in relation to pollution from ships ,the provisions of this Act shall prevail.

Jurisdiction	38. The Authority is empowered to exercise control over all matters as they relate to the provisions of this Act and such jurisdiction shall include the authority to appoint officers, surveyors, other persons and organizations and to confer such power as is reasonably necessary on such persons to assist in the effective ,legitimate , and proper enforcement of the Act.
Power of Authority	39. In addition to the powers and duties provided under the Port Authority Act the Authority shall take all necessary and reasonable measures to ensure and enforce the preservation and protection of the marine environment from pollution from ships.
Master to produce documents on demand.	40. The master of a ship arriving in a port, navigating or operating Dominican territorial waters shall on demand by an authorized officer produce - (a) the ship’s registers, records, books and other ship’s documents ; (b) a list of the crews and passengers , if any, showing particulars of their nationality and occupation; and also supply all such other information and answer all question in relation to the ship, passengers, cargo, discharges, sewage or garbage disposals and incineration, as such officer may reasonably require.
Power to detain Ship	41 (1) Where the Authority has legitimate reasons to believe that an offence has been committed by a person in charge of a ship by accidental or intentional discharge, contrary to any provisions of MARPOL, into Dominican territorial waters of oil, oily mixture, noxious liquid or harmful substances, garbage, sewage or other matter which may pollute the marine environment, the Authority may detain the ship. (2) Where the Authority detains a ship other than a Dominican ship it shall immediately notify the Minister, who shall then inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authority or Administration of that flag State of such detention.
Prosecution	42 (1) Any prosecution for an offence under this Act shall not be instituted without the prior consent in writing of the Authority or the Minister. (2) Notwithstanding subsection (1), a person may be – (a) arrested and charged with an offence under this Act, or a warrant for the arrest of that person may be issued and executed; (b) remanded in custody or on bail for not more than seven days, unless, in the meantime the consent of the Authority or the Minister has been obtained. (3) For the avoidance of doubt where consent is to be given under subsection (1) and there is any conflict as regards the giving of such consent, the consent given by the Minister shall prevail. (4) Where a person is brought before a court before the consent of the Authority or Minister is obtained, the charge shall, notwithstanding any other

law to the contrary, be read and explained to that person who shall not be called upon to plead.

(5) Where under this Act a document is to be served on a person or body corporate outside Dominica, the document shall be considered duly served if it is-

- (a) served on the master or owner; or
- (b) posted by registered mail to the last known address of such master or owner

(6) Where a fine imposed by a court in any proceedings against the owner or master of a ship for an offence under this Part is not paid, or any costs or expenses ordered to be paid by him are not paid at the time ordered to be paid by the court, the court shall, in addition to any other powers of enforcing payment, have the power -

- (a) to direct the amount remaining unpaid to be levied by distress;
- (b) to grant warrant authorizing the arrest and sale of the ship and its equipment.

Reparation. 43. The owner of a ship that is unduly and unreasonably detained under section 41 is entitled to be reasonably compensated by the Authority for any loss or damage suffered.

Limitation of Action. 44. Where, after the commencement of this Act, any action or other legal proceeding is commenced against the Authority for an act done in pursuance or execution or intended execution of this Act, the following provisions shall have effect, notwithstanding anything contained in any written law -

- (a) the action or legal proceeding shall not be commenced until at least thirty days after written notice containing the full particulars of the claim and intention to commence the action or legal proceeding has been served upon the Authority by the aggrieved party or his agent;
- (b) the action or legal proceeding shall not lie or be instituted unless it is commenced within eighteen months after the act, neglect, default, or damage complained of, or in the case of a continuing injury or damage within six months after the cessation thereof.

Release from Detention. 45. The Authority must without undue delay release the ship if –

- (a) within seven days, including the day of detention no proceeding or other action has been instituted against the master, owner or ship;
- (b) proceedings after having been instituted within the period in paragraph (a) are concluded and there is no conviction against the master or owner;
- (c) a person in charge of the ship or charged for the offence pleads guilty to the charge;
- (d) if there is a conviction and reasonable provisions are made to meet any fines or other security with which the master or owner has to comply; or

- (e) in the opinion of the Authority or a Court satisfactory measures are taken to provide for corrective measures which need to be undertaken in respect of the ship or any act.

Protection 46.(1). No personal liability shall attach to an authorized officer, other person or

of officer organization duly authorized by the Authority or Minister in respect of anything
detaining done or suffered in good faith and without negligence under the provisions of
ship in this Act ,and any sums of money which may be recovered against any such
good Faith. person or organization in respect of any act or thing done bona fide for the
purpose of implementing the provisions of this Act shall be paid by the
Authority.

(2) Notwithstanding anything contained in subsection (1) hereof the liability of the Authority for death or personal injury resulting from negligence of its officers or other authorized personnel or organization is not excluded thereby.

Appeals. 47. (1) A person aggrieved by a decision or order made by the Authority under this Act may, within fourteen days of being informed of that decision, appeal to the Minister with the further right of appeal to the High Court.

(2) Where the decision or order is made by a Magistrate Court a person aggrieved may appeal to the High Court.

Penalty. 48. A person who contravenes a provision of this Part commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for a period not exceeding one year.

PART IX- MISCELLANEOUS.

Emer- 49 (1) The owner of a Dominican ship or a ship to which this Act applies which
gency operates or navigates on a regular basis in Dominican territorial waters must
Plan. provide the ship with a pollution emergency plan as prescribed under
regulations made by the Minister except where such ship is exempted from
carrying such a plan.

(2) The emergency plan must be one which is certified and accepted by the Authority in Dominica or by the Administration or other competent authority in a MARPOL Member State where the ship is not a Dominican ship.

Accidents 50 (1) Where an accident occurs in a port or Dominican territorial waters if the accident -
(a) involves a collision between ships ;
(b) involves the accidental or other discharge of marine pollutants ;or
(c) is attended or is of a kind usually attended with loss of human life or with serious injury to persons or property ,
the master, owner or other person so responsible shall, immediately or as soon as

is practicable or possible, give notice of the accident to the Authority or Minister.

Render-
ing Assi-
stance. 51 (1) The master, crew members and any other able-bodied seamen or persons on a Dominican ship while at sea and as far as he can do so without damage, harm or injury to his ship, crew or passenger, if any, shall render assistance to all persons on a ship in distress or other danger.
(2) The master shall, as far as is practicable and within a reasonable time transmit all information of the situation to the Authority or the Administration or a competent authority of the nearest coastal state.

Compulsory
Insurance. 52. (1) Subject to the provisions of section 4(2) (a) of this Act, subsection (2) below shall apply to any ship operating or making frequent voyages to Dominican territorial waters carrying in bulk a cargo of more than 2,000 tons of oil or oily mixture of a description specified in regulations made by MARPOL.
(2) The ship shall not enter or leave a port in Dominican territorial waters nor, if the ship is a Dominican ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article II of the Liability Convention.
(3) The master shall keep on board the ship and present for inspection on demand by an authorized officer any such documents as mentioned in subsection (2).

Relation
to other
Conven-
tions. 53 (1) Where an international convention or other international instrument referred to in this Act applies to Dominica and a provision of that convention conflicts with a provision of this Act, the provision of the convention or instrument shall prevail.
(2) Where a provision of MARPOL and any amendments that may be made from time to time appear not to be provided for in this Act, these provisions as far as they pertain to Dominica shall be applicable as if they were provisions of this Act.

General
Penalty.. 54.(1) A Court trying an offence under this Act for which no specific penalty is provided, may -
(a) make such order as, in the opinion of the court, is reasonably necessary to deal with the circumstances of the case, based on the evidence before it; and
(b) forfeit to Dominica any goods including a ship used in the commission of an offence.

Regulations 55 (1) The Authority may make regulations for, inter alia, the following -
(a) the survey, monitoring and inspection of ships;
(b) regulations and requirements in respect of oil, chemical and other tankers in relation to their designs, construction, equipment,

- certification and operation as they relate to pollution of the marine environment;
- (c) retention of oil and oily mixtures onboard ship;
 - (d) oil discharge and monitoring systems and equipment;
 - (e) the required record books, certificates and other ship documents as prescribed under the various schedules;
 - (f) shipboard oil pollution emergency plan;
 - (g) detailed requirement on labeling, marking, packing, documentation towage, quantity limitation and exceptions for preventing and minimizing pollution of the marine in conformity with the IMDG CODE;
 - (h) sewage treatment plants and other matters relating to the storage, treatment and controlled discharge of sewage and the disposal and incineration of garbage and food wastes at sea; and
 - (i) provision for inspection of documents detention and arrest of ships and persons institution and conduct of legal proceedings and such other action; and
 - (j) any other provisions relating to special areas for the control of pollution in these areas.
- (2) Any Regulations made under subsection (1) shall be made in accordance with the guidelines and standards developed and issued by the IMO and shall have legal effect only after being authorized by the Minister and publication in the Official Gazette.

Commen-
cement.

56. This Act shall come into operation and have effect on the date of its publication in the Official Gazette.

SCHEduLES.

SCHEDULE I

SPECIAL AREAS:

1. The areas described below shall be special areas for the purposes of this Act:

1. The “Mediterranean Sea area” means the Mediterranean sea proper including the gulfs and seas therein with boundary between the Mediterranean and the Black Sea constituted by the parallel of 41 degrees North and bounded to the west by the Straits of Gibraltar at the meridian of 5 degrees 36 minutes West.
2. The “Baltic Sea area” means the Baltic Sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57 degrees 44.8 minutes North.
3. The “Black Sea area” means the Black Sea proper with boundary between the Mediterranean and the Black Sea constituted by the parallel 41 degrees North.
4. The “Red Sea area” means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane(12 degrees 8.5 minutes North, 43 degrees 19.6 minutes East) and Husn Murad (12 degrees 40.4 minutes North, 43 degrees 30.2 minutes East).
5. The “ Gulf of Aden area” means that part of the Gulf of Aden between the Red Sea and the Arabia Sea bounded to the west by the rhumb line between Ras si Ane and Husn Murad (described at 4 above)and to the east by the rhumb line between Ras Asir (11 degrees 50 minutes North, 51 degrees 16.9 minutes East) and the Ras Fartak (15 degrees 35 minutes North, 52 degrees 13.8 minutes East).
6. The “Antarctic area” means the sea area south of latitude 60 degrees South
7. The “North Sea area” means the North Sea proper including seas therein with the boundary between:
 - (i) the North Sea southwards of latitude 62 degrees North and eastwards of longitude 4 degrees West;
 - (ii) the Skagerrak, the southern limit of which is determined east of the Skaw by latitude 57 degrees 44.8 minutes

North; and

- (iii) the English Channel and its approaches eastwards of longitude 5 degrees West and northwards of latitude 48 degrees 30 minutes North.

8. The "Gulfs area" means the sea area located northwest of rhumb line between Ras al Hadd (22 degrees 30 minutes North, 59 degrees 48 minutes East) and Ras al Fasteh (24 degrees 04 minutes North, 61 degrees 25 minutes East).

9. The "Wider Caribbean Region", as defined in article 2, paragraph 1 of the Cartagena Convention means the Gulf of Mexico and the Caribbean Sea proper including the bays and seas therein and that portion of the Atlantic Ocean within the boundary constituted by the parallel of 30 degrees North from Florida eastward to the meridian of 77 degrees 30 minutes West, thence a rhumb line to the intersection of the parallel of 20 degrees North and the meridian of 59 degrees West, thence a rhumb line to the intersection of the parallel of 7 degrees 20 minutes North and the meridian of 50 degrees West, thence a rhumb line drawn south-westerly to the eastern boundary of French Guiana.

2. Notwithstanding the provisions of Schedule II any disposal or discharge within a special area shall be carried out in strict conformity with the provisions, requirements and regulations of MARPOL.

SCHEDULE II.

CONTROL OF DISCHARGE:

OIL:

1. (1) Subject to the provisions of this Act and any other regulations and requirements provided by MARPOL to regulate the discharge of oil and oily mixtures into the sea any discharge of oil or oily mixtures into the sea shall be as follows:
 - (a) discharge of oil and oily mixtures are permitted from an oil tanker provided all of the following conditions are satisfied:

- (i) the tanker is not within a special area;
- (ii) the tanker is not more than 50 nautical miles from the nearest land;
- (iii) the tanker is proceeding *en route*;
- (iv) the instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile;
- (v) the total quantity of oil discharged into the sea does not exceed, for new tankers, 1/30,000 of the total quantity of the particular cargo of which the residue formed a part, and for other tankers 1/15,000 of the total quantity of the particular cargo of which the residue formed a part;
- (vi) the tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by the regulations made by the Minister.

(2) Discharges of oil and oily mixtures are permitted from a ship of 400 gross tons and above, and from machinery space bilge of an oil tanker than as referred to in subsection (1) (a), provided that all of the following conditions are satisfied –

- (a) the ship is not within a special area;
- (b) the ship is proceeding *en route*;
- (c) the oil content of any effluent containing oil or oily mixture without dilution does not exceed 15 parts per million; and
- (d) the ship has in operation equipment as required by the regulations made by the Minister.

(3) Subsections (1) and (2) shall not apply to the discharge of clean or segregated ballast or unprocessed oily mixtures which without dilution have an oil content not exceeding 15 parts per million, and which do not originate from cargo pump-room bilge and are not mixed with oil cargo residues.

2. Notwithstanding the provisions of subsection (1), the disposal of food waste and discharge of chemicals including Category A, B, C and D and other substances shall be carried out in strict compliance with the provisions and regulations as laid down in MARPOL or any other regulations made by the Minister under section 55 of the Act.

