



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**MARINE POLLUTION PREVENTION
ACT, No. 35 OF 2008**

[Certified on 23rd October, 2008]

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*Marine Pollution Prevention
Act, No. 35 of 2008*

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L. D.—O. 11/2006.

AN ACT TO PROVIDE FOR THE PREVENTION, CONTROL AND REDUCTION OF POLLUTION IN THE TERRITORIAL WATERS OF SRI LANKA OR ANY OTHER MARITIME ZONE, ITS FORE-SHORE AND THE COASTAL ZONE OF SRI LANKA AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Marine Pollution Prevention Act, No. 35 of 2008, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette* (hereinafter referred to as the “appointed date”).

Short title and date of operation.

PART I

ESTABLISHMENT OF THE MARINE ENVIRONMENT PROTECTION
AUTHORITY

2. (1) There shall be established an Authority to be called the Marine Environment Protection Authority (hereinafter referred to as “the Authority”) and which shall consist of the persons specified in section 3.

Establishment of the Marine Environment Protection Authority.

(2) Subject to the general direction and control of the Minister, the Authority shall be responsible for the administration of the provisions of this Act.

(3) The Authority shall, by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

3. (1) The administration, management and control of the affairs of the Authority shall be vested in a Board of Directors (hereinafter referred to as “the Board”), consisting of the following :—

Board of Directors.

(a) three members appointed by the Minister who in the opinion of the Minister have experience, and

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have a shown capacity, in areas relating to Shipping, Port Operations or Marine Pollution Prevention ;

(b) seven *ex-officio* Directors :—

- (i) the person for the time being holding office as the Secretary to the Ministry of the Minister in charge of the subject of Environment or his representative;
- (ii) the person for the time being holding office as the Secretary to the Ministry of the Minister in charge of the subject of Foreign Affairs or his representative;
- (iii) the person for the time being holding office as the Secretary to the Ministry of the Minister in charge of the subject of Finance or his representative;
- (iv) the person for the time being holding office as the Secretary to the Ministry of the Minister in charge of the subject of Fisheries or his representative;
- (v) the person for the time being holding office as the Director of Merchant Shipping;
- (vi) the person for the time being holding office as the Commander of the Sri Lanka Navy or his representative;
- (vii) the person holding office for the time being as the General Manager of the Authority.

(2) the Minister shall appoint one of the members appointed under paragraph (a) of subsection (1) to be the Chairman of the Authority (hereinafter referred to as the “Chairman”).

4. (1) A person shall be disqualified from being appointed as a member or for continuing as a member of the Board :—

Disqualifications
for being
appointed as a
member.

- (a) if such person is, or becomes, a member of Parliament, a member of any Provincial Council or a member of a local authority;
- (b) if such person is not, or ceases to be, a citizen of Sri Lanka;
- (c) if such person has been declared an insolvent or an undischarged bankrupt under any law in Sri Lanka or any other country;
- (d) if such person is found or declared to be of unsound mind under any law in force in Sri Lanka or any other country;
- (e) if such person is serving or has served a sentence of imprisonment imposed by a Court in Sri Lanka or any other country.

(2) The members and Chairman appointed respectively, by the Minister under subsection (1) and (2) of section 3 shall, subject to the provisions of this section, hold office for a term of three years and shall be eligible for reappointment.

(3) The Minister shall remove from office any member appointed under subsection (1) of section 3—

- (a) if he becomes subject to any of the disqualifications as set out in subsection (1) of this section;
- (b) if in the opinion of the Minister he becomes permanently incapable of performing his duties owing to any physical disability or unsoundness of mind; or
- (c) if he does any act which, in the opinion of the Minister is likely to bring the Authority into disrepute.

(4) In the event of vacation of office of the Chairman appointed under subsection (2) or any other member of the Authority appointed under subsection (1) of section 3 or the removal from office of any member of the Authority under the provisions of the preceding subsection, the Minister may appoint on the recommendation of the Board another person to hold such office for the unexpired period of the term of office of the member whom he succeeds.

(5) If the Chairman appointed under subsection (2) or any member of the Board appointed under subsection (1) of section 3 is temporarily unable to discharge the duties of his office due to ill health or absence from Sri Lanka or for any other reason for a period not exceeding three months, the Minister may on the recommendation of the Board appoint another person to act in his place as Chairman or as member, as the case may be.

(6) The Chairman appointed under subsection (2) or any other member appointed under subsection (1) of section 3 may at any time resign his office as a Chairman or member as the case may be, by letter in that behalf addressed to the Minister.

(7) The Chairman appointed under subsection (2) and every member of the Board appointed under subsection (1) of section 3 may be remunerated in such manner and at such rate, out of the fund of the Authority as may be determined by the Minister, with the concurrence of the Minister of Finance.

(8) The Chairman of the Authority shall, if present, preside at all meetings of the Board. In the absence of the Chairman at any such meeting, the members present shall elect from amongst the members present at such meeting, a member to preside at the meeting.

(9) The quorum for any meeting of the Board shall be five members.

(10) The Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

(11) Meetings of the Board shall be held at least once in every month at such time and place as may be determined by the Board.

(12) No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

5. (1) The Seal of the Authority —

Seal of the
Authority.

- (a) shall be in the custody of the Chairman or a member authorized in writing in that behalf;
- (b) may be altered in such manner as may be determined by the Board;
- (c) shall not be affixed to any instrument or document except in the presence of two members of the Board, both of whom shall sign the instrument or document in token of their presence.

(2) The Board shall maintain a register of the instruments and documents to which the Seal of the Authority has been affixed.

PART II

FUNCTIONS OF THE AUTHORITY

6. The functions of the Authority shall be —

Functions of the
Authority.

- (a) to effectively and efficiently administer and implement the provisions of this Act and the regulations made thereunder ;
- (b) to formulate and execute a scheme of work for the prevention, reduction, control and management of pollution arising out of ship based activity and shore

based maritime related activity, in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka;

- (c) to conduct research in collaboration with other departments, agencies and institutions for both the government and the private sector, for the purpose of prevention, reduction, control and management of pollution arising out of any ship based activity or shore based maritime related activity, in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka;
- (d) to take measures to manage, safeguard and preserve the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka from any pollution caused by any oil, harmful substance or any other pollutant;
- (e) to provide adequate and effective reception facilities for any oil, harmful substance or any other pollutant;
- (f) to recommend adherence to all international Conventions and relevant Protocols dealing with marine pollution which the Government of Sri Lanka has or may ratify, accept, accede to or approve;
- (g) to formulate and implement the National Oil Pollution Contingency Plan;
- (h) to oversee, regulate and supervise the conduct of the contractors, service sub-contractors and person conducting or engaged in exploration of natural resources, including petroleum or related activities;
- (i) to create awareness amongst different groups of the community, of the need to preserve the marine environment;
- (j) to do all such other acts or things as may be necessary for the discharge of all or any of the above functions.

7. The Authority may exercise all or any of the following powers :—

Powers of the
Authority.

- (a) to effectively safeguard and preserve the territorial waters of Sri Lanka or any other maritime zone, it's fore-shore and the coastal zone of Sri Lanka from pollution arising out of any ship based activity or shore based maritime related activity ;
- (b) to conduct investigations and inquiries, and to institute legal action in relation to any pollution, arising out of any ship based activity or shore based maritime related activity ;
- (c) to oversee all sea transport of oil and bunkering operations that are carried out in the territorial waters of Sri Lanka or any other maritime zone, it's fore-shore and the coastal zone of Sri Lanka for the purpose of preventing of pollution ;
- (d) to acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property ;
- (e) to employ such officers and servants as may be necessary for the purpose of discharging the functions of the Authority ;
- (f) to enter into and perform directly or through any officer or agent authorized in that behalf, all such contracts as may be necessary for the discharge of the functions of the Authority ;
- (g) to appoint any person by name or office to whom purpose of exercising all or any of the powers conferred on the Authority under this Act may be delegated ;
- (h) to open, operate and maintain accounts in any bank or financial institution, approved by the Board ;

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- (i) to borrow such sums of money as may be necessary for the purpose of discharging the functions of the Authority ;
- (j) to accept and receive grants, donations and bequests, of property both movable and immovable, from sources in Sri Lanka and abroad and utilize them for the purpose of discharging the functions of the Authority ;
- (k) to make rules in respect of the management of the affairs of the Authority ;
- (l) to charge fees for any services provided by the Authority from any person or body of persons ;
- (m) to levy fees or charges in respect of the services provided by the Authority from all ships calling at Sri Lankan ports ; and
- (n) to do all such other acts or things as are necessary for the proper discharge of the functions of the Authority or are incidental to any of the powers specified in this Act or conferred on or assigned to the Authority.

Delegation of powers.

8. It shall be lawful for the Authority to delegate any power or function assigned to or conferred on it by this Act to any member of the Authority or any other designated officer of the Authority or to any other person, appointed for specific purposes under this Act.

Powers of inspections and surveys.

9. (1) It shall be lawful for the Authority or any person generally or specially authorized by the Authority in writing in that behalf, at any reasonable time of the day to enter upon any land or into any premises including oil installations for the purpose of making any survey, examination or investigation connected with or incidental to the exercise of any power, the discharge of any function or the performance of any duty by the Authority.

(2) It shall be lawful for the Authority or any person generally or specially authorized by the Authority in writing in that behalf, in consultation with the Director of Merchant Shipping at any reasonable time to board any ship in the prescribed manner within the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka visit any off shore installation in relation to the inspection of any apparatus, or pipe line, for the conduct of any survey, examination or investigation connected with or incidental to the exercise of any power, the performance of any duty or discharge of any function, of the Authority.

(3) It shall be lawful for the Authority or any officer authorized by the Authority in writing to board any fixed or mobile platform or any other relevant installation or enter any premises for carrying out such activities as may be prescribed.

(4) Every assistance shall be given to the Authority or to any person generally or specially authorized by the Authority, to carry out such surveys, examinations or investigations by the officers in charge for the time being of such off shore installation, apparatus or pipe line, as the case may be.

(5) Any person generally or specially authorized in that behalf by the Authority —

- (a) may require the owner, operator, master or agent of any ship that is within the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka or is about to enter such waters, to provide information in respect of —
 - (i) the condition of the ship, its machinery and equipment ;
 - (ii) the nature and quality of its cargo ;
 - (iii) the nature of the cargo and fuel on board such ship and the manner in which and the locations at which the cargo and fuel of the ship are stored ; and

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- (iv) such other matters relating to the ship or its cargo as may be required by the Authority for the implementation of the provisions of this Act ;
- (b) may in consultation with the Director Merchant Shipping, board any ship that is within the territorial waters of Sri Lanka or any other maritime zone, it's fore-shore and the coastal zone of Sri Lanka and conduct such inspections and tests as may be necessary to enable him to determine whether the owner, operator, master or agent of such ship has complied with the requirements laid down by the Act or any regulations made hereunder ; or
- (c) may inspect any record required to be kept by the owner, operator, master or agent of a ship regarding a ship and cause any entry in any such record to be copied and require the person in charge of the records to certify the copy made under this paragraph as a true copy of the original entry; or
- (d) may visit any off-shore installation, inspect any apparatus, pipeline or place on land and conduct such inspection as is necessary to enable him to determine whether the owner or person in charge of such off-shore installation, apparatus, pipeline or place on land had complied or is complying with the requirements laid down by this Act or any regulation made thereunder; or
- (e) may order the owner, operator, master or agent of any ship to proceed out of the territorial waters of Sri Lanka or any other maritime zone, it's fore-shore and the coastal zone of Sri Lanka declared by such route and in such manner as he may direct, and to remain outside such waters or to proceed to, and moor, anchor or remain for a specified period of time at a place identified by him within such waters —
 - (i) if he suspects on reasonable grounds that the ship has failed to comply with, or has

contravened Provision of the Act or any regulation made thereunder ; or

- (ii) if due to bad weather, poor visibility or condition of the sea, condition of the ship or any of its equipment, or any deficiency in its complement or the nature and condition of its cargo, he is satisfied that such an order is justified and would prevent the discharge, escape or dumping of any oil, harmful substances or other pollutant in the territorial waters of Sri Lanka or any other maritime zone, it's fore-shore and the coastal zone of Sri Lanka.

(6) Any person exercising any power conferred by this section shall not unreasonably detain or delay the ship from proceeding on any voyage.

(7) The Minister may prescribe the fees that may be charged for carrying out any test on the equipment and machinery required to be fitted to the ship by this Act or any regulation made thereunder.

(8) Where the Authority has reason to believe or is informed that —

- (a) a substantial quantity of oil, harmful substance or other pollutant has been discharged, or has escaped or has been dumped into the territorial waters of Sri Lanka or any other maritime zone, it's fore-shore and the coastal zone of Sri Lanka ; or
- (b) a grave or substantial discharge, escape or dumping of oil, harmful substance or other pollutant into territorial waters of Sri Lanka or any other maritime zone, it's fore-shore and the coastal zone of Sri Lanka is imminent, the Authority may —
 - (i) order the owner, operator, master or agent of any ship within a specified area in the territorial waters of Sri Lanka or any other

maritime zone, it's fore-shore and the coastal zone of Sri Lanka to forthwith report its position to the Authority ; or

- (ii) order the owner, operator, master or agent of any ship or instruct the owner, operator or person in charge of any apparatus, pipe line, off - shore installation or place on land to take such steps as may be necessary to control or contain the oil, harmful substance or other pollutant or to take part in the cleaning up of such harmful substance or other pollutant.

Power to order taking of prescribed steps.

10. (1) It shall be lawful for the Authority to order the owner, operator, master or agent of any ship, or the owner , operator or person in-charge of the apparatus, or the owner or the occupier of the off-shore installation, or the owner or the operator of the pipeline, or the owner or the occupier of any place on sea or land connected to any of the aforesaid activities to take such steps as may be prescribed to prevent, mitigate, control and clean up any pollution.

(2) Any person who fails to comply with such order made under subsection (1) shall be guilty of an offence under this Act and shall upon conviction be liable to a fine not less than rupees five hundred thousand and not exceeding rupees one million.

Power to detain any ship.

11. Notwithstanding any proceedings instituted under this Act, any authorized officer may detain any ship, if he has reasonable cause to believe that any oil, harmful substance or other pollutant has been discharged from the ship into the territorial waters or any other maritime zone, it's fore-shore and the coastal zone of Sri Lanka and the ship may be so detained until the owner, operator, master or the agent of the ship deposits with the Authority such sum of money or furnishes such security as would, in the opinion of the Authority, be adequate to meet the liability of the owner, operator, master or agent under this Act.

12. (1) Any authorized officer may arrest without a warrant in the area other than within the area of the exclusive economic zone, any person who commits an offence under this Act or any regulation made thereunder and may produce him before a Judge of a High Court having jurisdiction or before the High Court exercising admiralty jurisdiction, as the case may be.

Power of arrest.

(2) Where an offence has been committed under this Act or any regulation made thereunder, any article that has been used in the commission of such offence, may be seized and detained in a place, as may be determined by the High Court having jurisdiction or by the High Court exercising admiralty jurisdiction, as the case may be.

13. (1) Every police officer or any of the following officers designated in writing in that behalf shall be an authorized officer for the purposes of section 12:—

Authorized officer deemed to be a peace officer.

- (a) a member of the armed forces ;
- (b) ship surveyors of the Merchant Shipping Division of the Ministry of the Minister in charge of the subject of Shipping ;
- (c) an officer of the Sri Lanka Ports Authority having specialized knowledge in the prevention, control and mitigate reduction of pollution.

(2) Every authorized officer shall be deemed to be a peace officer within the meaning and for the purposes of the Code of Criminal Procedure Act, No. 15 of 1979.

PART III

ESTABLISHMENT OF MARINE ENVIRONMENTAL COUNCIL

14. (1) There shall be established a Council which shall be called the Marine Environmental Council (hereinafter referred to as “the Council”) consisting of the following members :—

Establishment of the Marine Environmental Council and its functions.

- (a) the Secretary to the Ministry of the Minister in charge of the subject of Planning or his representative ;

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- (b) the Secretary to the Ministry of the Minister in charge of the subject of Industries or his representative ;
- (c) the Secretary to the Ministry of the Minister in charge of the subject of Tourism or his representative ;
- (d) the Secretary to the Ministry of the Minister in charge of the subject of Foreign Affairs or his representative ;
- (e) the Secretary to the Ministry of the Minister in charge of the subject of Ports or his representative ;
- (f) the Secretary to the Ministry of the Minister in charge of the subject of Shipping or his representative ;
- (g) the Secretary to the Ministry of the Minister in charge of the subject of Petroleum and Petroleum Resources Development or his representative ;
- (h) the Director of the Coast Conservation Department or his representative ;
- (i) the Chairman of the Central Environmental Authority established by the National Environmental Act, No. 47 of 1980, or his representative ;
- (j) the Chairman of the Ceylon Petroleum Corporation established by the Ceylon Petroleum Corporation Act, No. 28 of 1961, or his representative ;
- (k) the Director-General of Department of Fisheries or his representative ;
- (l) the Director-General of Wild Life Conservation or his representative ;
- (m) the Director- General of the Disaster Management Centre or his representative ;

- (n) two members of the academic staff of a higher educational institution, specializing in the field of environmental protection or marine pollution, nominated by the Chairman of the University Grants Commission, established by the Universities Act, No. 16 of 1978 ;
- (o) a senior officer of the Ceylon Association of Ships Agents nominated by Chairman of such Association ;
- (p) two members from among registered non-governmental organizations involved in environmental protection activities, nominated by the Minister.

(2) The Minister shall appoint a member from amongst the members of the Council to be the Chairman of the Council.

(3) The functions of the Council shall be—

- (a) to advise the Authority on matters connected to the exercise, performance and discharge of the powers, duties and functions of the Authority ; and
- (b) to advise the Authority on any matter referred to the Council by the Authority.

15. (1) A person shall be disqualified from being appointed or from continuing as a member of the Council :—

- (a) if such person is, or becomes a member of Parliament, a member of any Provincial Council or of any Local Authority ;
- (b) if such person is not, or ceases to be, a citizen of Sri Lanka ;
- (c) if such person has been declared an insolvent or an undischarged bankrupt under any law in Sri Lanka or any other country ;

Disqualifications
for being
appointed a
member of the
Council.

- (d) if such person is found or declared to be of unsound mind under any law in force in Sri Lanka or any other country ;
- (e) if such person is serving or has served a sentence of imprisonment imposed by a Court in Sri Lanka or any other country.

(2) A member appointed by the Minister under subsection (1) of section 14 shall, subject to the provisions of subsections (3) and (4) of this section, hold office for a term of three years and shall be eligible for reappointment.

(3) The Minister shall remove from office any member appointed under subsection (1) of section 14 —

- (a) if he becomes subject to any of the disqualifications set out in subsection(1) of this section ;
- (b) if in the opinion of the Minister he becomes permanently incapable of performing his duties, owing to any physical disability or unsoundness of mind ; or
- (c) if he does any act which, in the opinion of the Minister is likely to bring the Authority into disrepute.

(4) In the event of vacation of office of the Chairman appointed under subsection (2) or any other member of the Council appointed under subsection (1) of section 14 or the removal from office of any member of the Council under the provisions of the preceding subsection, the Minister may appoint another person to hold such office during the unexpired part of the term of office of the member whom he succeeds.

(5) If the Chairman appointed under subsection (2) or any member of the Council appointed under subsection (1) of section 14 is temporarily unable to discharge the duties of his office due to ill health or absence from Sri Lanka or for

any other reason for a period not exceeding three months, the Minister may appoint another person to act in his place as Chairman or member, as the case may be.

(6) The Chairman appointed under subsection (2) or any member of the Council appointed under subsection (1) of section 14 may, at any time resign his office by letter in that behalf addressed to the Minister.

(7) The Chairman appointed under subsection (2) and every member of the Council appointed under subsection (1) of section 14 may be remunerated out of the Fund of the Authority at such rates as may be determined by the Minister with the concurrence of the Minister of Finance.

(8) The Chairman of the Council shall, if present, preside at all meetings of the Council, in the absence of the Chairman at any such meeting, the members present shall elect one of the members to preside at the meeting.

(9) The quorum for any meeting of the Council shall be eleven members.

(10) The Council may regulate the procedure in regard to the conduct of meetings of the Council and the transaction of business at such meetings.

PART IV

STAFF OF THE AUTHORITY

16. (1) There shall be a General Manager appointed by the Authority, who shall have adequate experience and qualifications in the field of shipping, port operations or the prevention and management of marine pollution.

Staff of the
Authority.

(2) The General Manager shall be the Chief Executive Officer of the Authority and subject to the general direction of the Board on matters of policy be responsible for the business of the Authority, the organisation and the exercise of the powers, and the discharge of the functions of the Authority and the administrative control of the officers and servants of the Authority.

(3) There shall be a Secretary to the Board appointed by the Authority, who shall have adequate experience and qualifications in the field of law or company secretarial practice.

(4) The Secretary shall be present at all meetings of the Board and be responsible for the maintenance of proper records of the minutes of all meetings of the Authority.

Conditions of
Employment.

17. (1) The Authority may appoint such officers and servants as it considers necessary for the efficient exercise, performance and discharge of its powers, duties and functions.

(2) The officers and servants of the Authority shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Authority.

(3) At the request of the Authority any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority or with like consent, be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Authority the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to, such officer.

(5) Where any officer in the public service is permanently appointed to the staff of the Authority the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to, such officer.

(6) Where the Authority employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(7) The Authority may at its discretion whenever the need to do so arises in connection with the exercise or discharge of its powers and functions, obtain the services of a person or a body of persons possessing proven experience and who have shown capacity in areas relating to shipping, port operation and the prevention and management of marine pollution or any other related area as may be determined by the Authority, in the capacity of a consultant, at a fee to be decided by the Authority.

PART V

FINANCE

18. (1) The Authority shall maintain a fund to which shall be credited —

The Fund of the Authority.

- (a) all such sums of money as may be voted, from time to time by Parliament for the use of the Authority ;
- (b) all such sums of money as may be received, by the Authority in the exercise, performance and discharge of the powers, duties and functions of the Authority ;
- (c) all such sums of money as may be received, by the Authority by way of loans, donations, gifts, bequests or grants from any source whatsoever, whether in or outside Sri Lanka ;
- (d) all such sums of money lying to the credit of the Marine Pollution Prevention Authority established under the Marine Pollution Prevention Authority Act, No. 59 of 1981 on the day immediately preceding the appointed date ;

- (e) all such sums of money as may be received, by the Authority by way of fees, fines, charges, levies or penalties.

(2) There shall be paid out of the fund of the Authority all such sums of money as are required to defray any expenditure incurred by the Authority in the exercise, performance and discharge of its powers, duties and functions.

Accounts.

19. (1) The Authority shall cause proper accounts to be kept of its assets and liabilities, income and expenditure and all other transactions of the Authority.

(2) The financial year of the Authority shall be the calendar year.

Audit of the
Accounts.

20. The provisions of Article 154 of the Constitution shall apply to the audit of the accounts of the Authority.

PART VI

RECEPTION FACILITIES AND PREVENTIVE MEASURES AGAINST POLLUTION

Waste
Management.

21. The Authority shall exercise the following powers when dealing with waste management :—

- (a) to provide reception facilities within or outside any port in Sri Lanka, in consultation with the Marine Environmental Council to enable any ship using such port or traversing Sri Lanka waters or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka to discharge or deposit any residue of oil or other pollutants ;
- (b) to direct the person in charge of all ports, harbours, terminals, repair yards of ships, dry docks or any other marine related facility used by ships which have any residue of oil to discharge, to provide adequate reception facilities for the purpose of such discharge :

For the purposes of this paragraph the Authority may seek the assistance of any other person for the provision of such facilities or arrange for the provision of such facilities by any other person ;

- (c) to direct the person in charge of all ports, harbours, terminals, repair yards of ships, dry docks or other marine related facilities used by ships which have any residue of oil discharge, to obtain the services of any such facility arranged by the Authority ;
- (d) to direct the person in charge of all ports, harbours terminals, repair yards of ships, dry docks or any other marine related facilities :—
 - (i) to prepare a waste management plan which shall be approved by the Authority and to regularly update such plan with the approval of the Authority; and
 - (ii) to carry out at prescribed intervals, an environmental impact assessment (EIA) by a Classification Society approved by the Authority.

22. (1) Every ship that enters the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka shall carry record books relating to oils, harmful substances or any other pollutants.

Record books
relating to oils
and pollutants.

(2) The master or the person in charge of any ship referred to in subsection (1) shall record in the oil record book, activities relating to :—

- (a) the loading of oil cargo ;
- (b) the transfer of oil cargo to, and from, a ship in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka ;

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- (c) internal transfer of oil cargo during a voyage ;
- (d) the discharge of oil cargo ;
- (e) the ballasting or cleaning of oil fuel tanks (whether cargo or bunker fuel tanks) ;
- (f) the discharge of ballast from, and cleaning of, such tanks ;
- (g) the separation of oil from water, or from other substances, in any mixture containing oil ;
- (h) disposal of any other oily residues ;
- (i) the disposal of any oil or water, or any other substance arising from operations in respect of any matter specified in the preceding sub-paragraphs ;
- (j) disposal of bilge water which has accumulated within the spaces of any machinery ;
- (k) any occasion on which oil or mixture containing oil is discharged from any ship, for the purpose of securing the safety of any ship or of preventing damage to any ship or cargo or for saving human lives ;
- (l) any occasion on which oil or a mixture containing oil is found to be escaping or to have escaped from the ship in consequence of damage to the ship or by reason of leakage or due to any other reason ;
- (m) closing of all applicable valves or similar valves subsequent to oil discharge operations ; and
- (n) all such other operations as may be prescribed.

(3) Any records required to be kept under subsection (1) of this section shall, be kept by the Master or the person in charge of the ship and where such ship is a barge —

- (a) in so far as they relate to the transfer of oil to the barge, by the person supplying the oil ; and
- (b) in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.

(4) In the event of accidental discharge of oil, a statement shall be made in the oil record books, of the circumstances of, and the reasons for, the discharge.

(5) Each operation described in subsection (2) of this section shall be fully recorded in the relevant oil record book without delay, in order to complete all entries in the book appropriate to that operation. Each completed operation shall be signed by the master of the ship or the person in charge of the ship, and the entries in the oil record book shall be in the official language of the State whose flag the ship is entitled to fly and for ships holding an International Oil Pollution Prevention Certificate, in either the English or French language.

(6) The master or the person in charge of the ship referred to in subsection (1) of this section shall, record in the record book carried as an official log book or as a separate log book, records relating to the discharge or escape of pollutants that may be prescribed.

(7) The form of the record book and other records required to be maintained under this section shall be substantially in the prescribed form.

(8) If any ship fails to carry a record book referred to in subsection (1) of this section, the owner, operator, agent, master and the person in charge of the ship shall be guilty of an offence under this Act.

(9) Any person who makes an entry in any record book referred to in subsection (1) of this section or on any record kept under this section which to his knowledge is false or misleading in any material particular, shall be guilty of an offence under this Act.

(10) Any record book referred to in subsection (1) of this section, shall be kept in such a place as is readily available at all reasonable times for inspection by the Authority or by any person nominated by the Authority :

Provided however in the case of an unmanned ship under tow such record book shall be kept on board the ship and shall be preserved for a period of three years from the date of the last entry.

(11) (a) The Authority or any officer authorized in writing by the Authority may :—

- (i) board any ship which is in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka and inspect the oil record book or the record books relating to harmful substance or pollutants ; or
- (ii) require the master of such ship or the person in charge of such ship to forward to the Authority a certified copy of the entries made in the record book relating to oil or other pollutant within twenty-four hours of a written notification relating to the same being communicated to such master or the person in charge of the ship ; or
- (iii) require the master of the ship or the person in charge of the ship to make a copy of any entry and certify such copy as a true copy of such entry ; and

(b) The master of the ship or the person in charge of the ship who fails to comply with the preceding provisions of this section shall be guilty of an offence.

(12) Any inspection carried out and the issue of certified copies under subsection (11) of this section shall be carried out with the least possible delay being caused to the ship.

(13) Any person who contravenes the provisions of subsections (8) and (9) shall be guilty of an offence under this Act and shall be liable on conviction to a fine not less than rupees three million and not exceeding rupees six million.

(14) In any proceeding instituted under this Act—

- (a) any record book carried on a ship or records kept or maintained in pursuance of the preceding provisions of this section shall be admissible in evidence and shall be *prima facie* evidence of the facts stated therein ;
- (b) any copy of an entry in such record book or record which is certified as a true copy, by the master of the ship or the person in charge of the ship on which the book is carried or by whom the record is required to be kept, to be a true copy of the entry, shall be admissible as evidence and shall be *prima facie* evidence of the facts stated therein ;
- (c) any document purporting to be a record book maintained or record kept in pursuance of the preceding provisions of this section, or purporting to be a certified copy as is referred to in paragraph (b) of this subsection shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.

23. (1) Every ship entering the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka shall be fitted with such equipment for the prevention of the discharge of oil, harmful substances or any other pollutant as may be prescribed and shall comply with such other requirements, relating to or incidental to such prevention as may be prescribed.

Equipment in ships to prevent pollution.

(2) Any owner, operator, master or agent of a ship who contravenes the provisions of this section, or any regulation made thereunder shall be guilty of an offence under this Act and shall on conviction be liable to a fine not less than rupees three million and not exceeding rupees six million.

PART VII

MARITIME CASUALTIES

Maritime
Casualties.

24. (1) Where pollution is caused or there is an imminent threat of pollution to the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka or in relation to any interest in such waters or fore-shore, due to any maritime casualty or in consequence of any act resulting therefrom, the Authority may, direct—

- (a) the owner of the ship, the charterer of the ship or to any other person in possession of the ship ;
- (b) the master of the ship ;
- (c) any salvor in possession of the ship or to any person who is the servant or agent of any salvor in possession of the ship, and who is in charge of the salvage operation ;
- (d) any other person generally or specially authorized by the Authority,

to take such urgent and immediate measures in respect of the ship or its cargo or any oil on board the ship as may be necessary to prevent, mitigate or eliminate such pollution or the threat of such pollution.

(2) The directions issued to any person under subsection (1) may require—

- (a) the ship to be moved to a specified place, or to be removed from a specified area or locality ;

- (b) the ship not to be moved to a specified place or area or locality or by way of a specified route ;
- (c) any oil or other cargo to be either loaded or not to be loaded, unloaded or discharged as the case may be ;
- (d) that specified salvage measures are to be or are not to be so taken.

(3) If in the opinion of the Authority, the direction issued under this section is proved to be ineffective or inadequate for the purpose of preventing or mitigating or eliminating pollution or the threat of pollution, the Authority may —

- (a) undertake operations for the sinking or destruction of the ship or any part of it ;
- (b) undertake operations which may necessarily involve the taking over of control of the ship ;
- (c) undertake operations which may involve the loading, unloading or discharging of any oil.

(4) No action shall lie against the Authority or any person authorized by the Authority for damages in any civil Court, for any act done or purported to be done in good faith under this section.

25. (1) Every person who carries out any act in pursuance of any direction given by the Authority under section 24 shall ensure that —

- (a) any act done in order to prevent or mitigate or eliminate pollution or the threat of pollution shall be proportionate to the damage, actual or threatened, by such pollution ;
- (b) due respect is paid to the rights and interests of the flag state, third state and any other person.

Measures taken under section 24 to be proportionate to actual or threatened damage.

(2) Every person who —

- (a) contravenes or fails to comply with any direction given under section 24 ;
- (b) wilfully obstructs any person who is authorized to act in pursuance of any directions issued under section 24,

shall be guilty of an offence under this Act and shall be liable on conviction to a fine not less than rupees fifteen million and not exceeding rupees thirty five million.

PART VIII

PREVENTION OF POLLUTION-CRIMINAL LIABILITY

Discharge or escape of oil, harmful substance or other pollutant into the territorial waters of Sri Lanka or any other maritime zone.

26. If any oil, harmful substance or other pollutant is discharged or escapes into the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka from any ship or from any apparatus used for transferring oil, harmful substances or other pollutant to or from a ship (whether to or from a place on land or from another ship) or from an off-shore installation or from a pipeline or from any place on land or as a result of any operation for the exploration of the seabed or subsoil or the exploration of the natural resources thereof, then, subject to the provisions of this Act —

- (a) where the discharge or escape is from a ship, the owner, operator, master or the agent of the ship ; or
- (b) where the discharge or escape occurs during the course of transferring oil, harmful substances or a pollutant to or from a ship, the owner or the master of the ship or where the discharge or escape is from any apparatus used for transferring oil, harmful substances or a pollutant, the owner or the person in charge of the apparatus ; or
- (c) where the discharge or escape is from an off-shore installation or as a result of any operation for the exploration of the seabed or subsoil or the

exploration of the natural resources thereof, the owner or the occupier of that installation or the person carrying on the operation or the person in charge of the operation ; or

- (d) where the discharge or escape is from a pipe line, the owner or operator of the pipe line ; or
- (e) where the discharge or escape is from a place on land, the owner or the occupier of that place, or if the discharge or escape is caused by the act of another person who is in that place without the permission of the owner or occupier, that person,

shall be guilty of an offence under this Act and shall be liable on conviction to fine not less than rupees four million and not exceeding rupees fifteen million.

27. Any person who, except in accordance with the terms and conditions of a permit obtained from the Authority, dumps any oil, harmful substance or other pollutant into the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka shall be guilty of an offence under this Act and shall be liable on conviction to a fine not less than rupees four million and not exceeding rupees fifteen million.

Dumping of oil &c., only under authority of a permit.

28. (1) The owner or operator of a ship or operator of an offshore installation, owner of a pipeline or any person authorized by such owner, may on an application made in writing in that behalf to the Authority, in such form as may be prescribed, obtain a permit authorizing such owner, operator or person to dump oil, any harmful substance or other pollutant into the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka.

Application for a permit.

(2) No permit shall be issued by the Authority or any person authorized in that behalf by the Authority to any person referred to in subsection (1) of this section except upon payment of such fee as may be prescribed by the Authority.

(3) A permit issued under subsection (1) of this section —

- (i) shall be in writing and continue to be in force for such period as may be specified therein ;
- (ii) shall set out the terms and conditions subject to which the permit is issued ;
- (iii) shall not be transferable.

Power to grant or refuse a permit.

29. (1) Upon receipt of an application for a permit under section 28, the Authority may having regard to the type of oil, harmful substance or pollutant to be dumped into the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka and the location of disposal, grant the required permit or where it is satisfied that the grant of such permit would harm any living species in such territorial waters or maritime zone, its fore-shore and the coastal zone of Sri Lanka or have an effect on the quality of the water or disrupt any marine activity, refuse to issue a permit or renew such permit, and shall forthwith communicate such decision to the applicant.

(2) Any person referred to in subsection (1) of section 28, who is aggrieved by the decision of the Authority may appeal to the Secretary to the Ministry of the Minister in charge of the subject of Marine Pollution, against such decision within thirty days from the date on which the decision was communicated to the applicant.

(3) The Secretary may on an appeal made under subsection (2) —

- (a) allow the appeal and direct the authorized officer against whose decision the appeal was made, to issue, renew or amend as the case may be, such permit or annul the order of suspension or cancellation ; or
- (b) disallow the appeal.

(4) The Authority shall comply with any direction issued to it under subsection (3).

30. Every permit issued under section 29 shall have attached thereto all such conditions as may be determined by the Authority having regard to the safety of the living species in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka the quality of the water and marine activity. Such conditions may, among others, include conditions requiring —

Conditions to be attached to the permit.

- (a) that the report of the tested sample of the oil or substance or pollutant to be dumped into the sea by a competent officer of the Authority authorized in that behalf in writing, shall be exhibited in a conspicuous place of the ship ; and
- (b) that the vessel used under the authority of the permit shall be used only for the purpose specified in the permit and on the day specified therein and during the time specified therein.

31. The Authority may, at the time of the issue of a permit under section 29, specify therein by reference to the flag under which it is flying and other particulars as it may consider necessary, the vessel, which is authorized by the permit, to dump oil or any harmful substance or other pollutant into the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka.

Specification of the authorized vessel in the permit.

32. No permit issued under section 29 to any person specified in that section shall be transferable to any other person, and accordingly any such transfer shall be null and void.

Permit not transferable.

33. No person shall be made liable to any offence under section 24 or 26, if —

Exemption from liability.

- (a) the oil or harmful substance or other pollutant is discharged or dumped in consequence of the removal by the Authority of sunk, stranded or

abandoned vessels in the exercise of any power conferred by any written law or any act done on the written instructions of the Minister ;

- (b) the substances containing oil, harmful substances or other pollutants are discharged or dumped by the Authority, for the purpose of combating a specific incident of pollution by mitigating or eliminating the damage therefrom.

PART IX

PREVENTION OF POLLUTION-CIVIL LIABILITY

Civil Liability.

34. (1) Where any act referred to in section 24 or section 26, results in the pollution of the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka, the owner or the operator of the ship or the owner or the person in charge of the apparatus or the owner or the occupier of the off-shore installation or the owner or occupier of the pipe line or the owner or the occupier of the place on land for the time being, as the case may be or the person carrying on the operation of exploration of natural resources including petroleum or the person in charge of such operation shall be liable for —

- (a) any damage caused by the discharge, escape or dumping of any oil, harmful substances or other pollutant in to the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka under such Law or to the fore-shore or any interests related thereto ;
- (b) the costs of any measures taken for the purposes of preventing, reducing or removing any damage caused by the discharge, escape or dumping of any oil, harmful substance or pollutant into the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone or any interests related thereto.

(2) For the purpose of this section, interests related to the territorial waters of Sri Lanka or any other maritime zone, its fore-shore of Sri Lanka include —

- (a) marine, coastal, port or estuarine activities including fisheries activities ;
- (b) the promotion of tourism and the preservation and development of tourist attractions in the territorial waters of Sri Lanka or any other maritime zone or on the fore-shore including beaches and coral reefs ;
- (c) the health of the coastal population and their well-being ; and
- (d) the protection and conservation of living marine resources and wild life.

(3) Where any oil, harmful substance or other pollutant is discharged or escapes or is dumped from two or more ships and liability is incurred under this section by the owner or the operator of each ship and the damage or costs for which each owner or operator is liable cannot reasonably be separated from that for which the other or others is or are liable, each owner or operator shall be liable, jointly and severally with the other or others for the whole of the damage or costs for which the owner or the operator would be liable under this section.

35. (1) (a) The liability in respect of any one incident under section 34 shall be limited in accordance with such of the provisions of the International Convention on the Civil Liability for Pollution Damage, 1992 as may be incorporated into regulations made under this Act.

Limitation of liability.

(b) The maximum liability incurred by the owner or operator of a ship or the owner or person in charge of an apparatus or the owner or occupier of an off-shore installation, pipe line, or place on land, as the case may be, or any person carrying on the operation of exploration of natural resources including petroleum resources or the person in charge of

such operation under this Part of the Act shall be limited in accordance with the provisions of the International Convention on the Civil Liability for Pollution Damage, 1992 as may be incorporated into regulations made under this Act.

(2) Where any act referred to in section 34 occurs due to the negligence of the owner, or operator of a ship or the owner or person in charge of an apparatus or the owner or occupier of an off- shore installation, pipe line or place on land, as the case may be or any person carrying on the operation of exploration of natural resources including petroleum resources or the person in charge of such operation such person shall not be entitled to avail himself of the limitations provided in subsection (1) of this section.

Compulsory
Insurance.

36. (1) The owner or the operator of a ship carrying more than two thousand metric tones of oil in bulk as cargo, which enters or leaves a port in Sri Lanka or enters or leaves the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka or a terminal in such waters shall have in his possession a valid Certificate of Insurance or other financial security such as a guarantee of a bank or a certificate issued by an international fund, in respect of such ship, which is acceptable to the Authority and if the ship is registered in a State which is a party to the International Convention on the Civil Liability for Pollution Damage, 1992, a Certificate issued by the appropriate authority of that State.

(2) The Certificate of Insurance or other security required by subsection (1) in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master, to the Authority or any person authorized in that behalf by the Authority.

(3) Where a ship enters or leaves or attempts to enter or leave a port in Sri Lanka or arrives at or leaves or attempts to arrive at or leave the territorial waters of Sri Lanka and other

maritime zone, its fore-shore and the coastal zone of Sri Lanka in contravention of subsection (1), the owner, operator or the master of such ship shall be guilty of an offence under this Act and be liable on conviction to a fine not less than rupees one million and not exceeding rupees five million.

(4) Where a ship fails to carry or the master of a ship fails to produce, a Certificate or security as required by subsection (2), the owner, operator or the master of the ship, shall be guilty of an offence under this Act and be liable on conviction to a fine not less than rupees one million and not exceeding rupees six million.

(5) Where a ship attempts to leave a port in Sri Lanka in contravention of this section the ship may be detained by the Authority.

37. (1) No owner, operator, master or agent of any ship and or occupier of any place shall, transfer oil between the hours of 6 p.m. and 6 a.m. of any day to, or from, a vessel in any harbour in Sri Lanka, unless notice (which can either be general or specific) has been given to the Harbour Master and the prior consent of the Fire Department has been obtained for the same.

Restrictions on
transfer of oil.

(2) If any oil is transferred to or from a vessel in contravention of the provisions of this section, the master of the vessel or the occupier of any place on land to or from which it is transferred shall be guilty of an offence under this act and be liable on conviction to a fine not less than rupees four million and not exceeding rupees five million.

(3) The notice referred to in subsection (1) shall state —

- (a) the place at which the transfer of oil shall take place ;
and
- (b) the time and the period within such the transfer shall
be carried out.

(4) The period referred to in subsection (3) within which the transfer shall be carried out shall in no event exceed a period of twelve months from the date of approval.

Duty to report discharge of oil or other pollutant into the territorial waters etc.

38. If any oil or other pollutant is discharged, escapes or is dumped for any reason whatsoever into the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka—

- (a) from a ship;
- (b) from an apparatus used to transfer oil or any other pollutant;
- (c) from an off-shore installation;
- (d) from a pipe-line;
- (e) from a place on land;
- (f) from a fixed or mobile platform,

then the owner, operator, master or agent of the ship or the owner or person in charge of the apparatus or the owner or occupier of the off-shore installation, pipe-line or place on land, as the case may be or any person carrying on an operation or exploration of natural resources including petroleum or the person in charge of such operation, shall forthwith report all details of such occurrence to the Authority. If any person fails to do so, he shall be guilty of an offence under this Act and shall be liable on conviction to a fine not less than rupees one million and not exceeding rupees five million.

Oil Spill
Contingency
Plan.

39. (1) The Authority shall have the power to direct, all persons in charge of ports, harbour terminals, repair yards of ships, dry docks, off shore installations, pipe lines or any other apparatus used for transferring oil to or from a ship, to submit an Oil Spill Contingency Plan within three months of the coming into operation of this Act. The plan shall contain such matters and be subject to such conditions as may be prescribed by regulations.

(2) Any person who fails to submit an Oil Spill Contingency Plan in accordance with the provision of subsection (1), shall be guilty of an offence under this Act and shall upon conviction, be liable to a fine not less than rupees seven hundred and fifty thousand and not exceeding rupees fifteen hundred thousand.

PART X

PREVENTION OF POLLUTION WHEN ENGAGED IN EXPLORATION OF NATURAL RESOURCES INCLUDING PETROLEUM OR ANY RELATED ACTIVITY

40. (1) Any person who intends to conduct or engage in exploration of natural resources including petroleum or any related activity shall —

- (i) conform to the prescribed national standards and install and maintain prescribed anti-pollution equipment for the purpose of ensuring the control and prevention of pollution;
- (ii) dispose of all industrial garbage in bulk in accordance with the prescribed conditions in relation to marine dumping;
- (iii) ensure that the equipment utilized for oil storage installation and oil pipelines conforms to the required standards of the Authority;
- (iv) obtain the prior written approval of the Authority to utilize chemical dispersant in the prescribed manner;
- (v) obtain a licence in the prescribed manner for the purposes of using dynamite or similar harmful explosives.

Standards to be observed by those engaged in exploration of natural resources including petroleum.

(2) Every person who intends to conduct or engage in the exploration of natural resources including petroleum or any related activity shall comply with the provisions of subsection (1).

Offences and penalties.

41. (1) Any person who contravenes the provisions of section 40 or any regulation made thereunder shall be guilty of an offence and shall on conviction be liable to a fine not less than rupees three million and not exceeding rupees six million and shall in addition be ordered by Court to remove or remedy the damage to the environment wherever it is possible and reimburse the expenses, if any, incurred by the Authority in clearing up the polluted area and compensate the State for any loss sustained by the State due to damage to the environment.

(2) Any person who —

- (i) causes marine or environmental pollution;
- (ii) fails to report to the Authority a major oil pollution accident;
- (iii) fails to observe the prescribed standards when utilizing chemical dispersants;
- (iv) fails to maintain the Anti-pollution Record Book in the prescribed manner;
- (v) makes false entries in the Anti-pollution Record Book;
- (vi) fails to carry out any direction given by the Authority,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding rupees three million.

PART XI

MISCELLANEOUS PROVISIONS

Detained ships proceeding to sea.

42. (1) If any ship is detained under section 11 or subsection (5) of section 36 and the ship proceeds to sea before it is released by the proper authority, the master, owner, operator, agent or any other person who is a party or privy to

the act of sending the ship to sea, shall be guilty of an offence under this Act and shall be liable on conviction to a fine not less than rupees six million and not exceeding rupees fifteen million.

(2) Any person Authorized under this Act to detain a ship may, if he thinks it necessary, seek the assistance of the armed forces of Sri Lanka.

43. (1) Whenever —

- (a) any foreign ship is detained under this Act; and
- (b) any proceedings are instituted under this Act against the master or owner of such ship,

Notice to
Consular Office
on detention of
foreign ships.

notice shall forthwith be served by the Authority on the Consular Officer for the country under whose flag the ship is registered.

(2) The Notice to be served under subsection (1) shall specify the grounds on which the ship has been detained or on which the proceedings have been instituted.

44. Any notice, authority, order, direction or other communication required or authorized to be given or made by the Authority under this Act to any person (not being an officer appointed under this Act), by or under this Act shall be made or given in writing.

Notices to be in
writing.

45. (1) Where for the purposes of this Act any document is to be served on any person, that document may be served —

Service of
documents.

- (a) by delivering a copy thereof personally to the person on whom such document is required to be served, or by leaving such copy at his last known place of abode or by transmitting or sending such copy by post or facsimile;

- (b) by leaving the document on board the ship with the person being or appearing to be in command or charge of the ship, where the document is required to be served on —
 - (i) the Master of the ship (in cases where there is a Master); or
 - (ii) a person who is a member of the crew of such ship;
- (c) if the document is to be served on the master of a ship, and there is no master and the ship is in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka or the managing owner of the ship or, if there is no managing owner in the territorial waters of Sri Lanka, or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka on some agent of the owner residing in Sri Lanka or, where no such agent is known or can be found, by affixing a copy thereof in a conspicuous place of the ship.

(2) A person who obstructs the service of any document under this Act on the Master of a ship relating to the detention of the ship due to unseaworthiness shall be guilty of an offence under this Act and shall on conviction be liable to a fine not less than rupees seven million and not exceeding rupees eight million or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.

(3) Any owner or Master of a ship who is a party or privy to any obstruction referred to in subsection (2), shall be guilty of an offence under this Act and shall be liable on conviction to a fine not less than rupees two million and not exceeding rupees eight million or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

46. Where the owner, operator, master or the agent of a ship has been convicted of an offence under the provisions of this Act and any fine imposed or any liability incurred is not discharged or is not paid within the time ordered by the Court, the Court, shall, in addition to its powers for enforcing payment, have the power to direct that the amount remaining unpaid shall be levied by distraint and sale of the ship, her tackle, furniture and apparel.

Sale of a ship.

47. The provisions of this Act shall not apply to any ship belonging to the Sri Lanka Navy, the Sri Lanka Army, or the Sri Lanka Air Force respectively, to whom the provisions of the Army Act (Chapter 357), Navy Act (Chapter 358) and the Air Force Act, (Chapter 359) respectively apply.

Non application of the provisions of the Act.

48. (1) Notwithstanding anything to the contrary in the Judicature Act, No. 2 of 1978, every offence under this Act committed in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka shall be triable by a High Court of a Province established under Article 154P of the Constitution, the High Court sitting in any judicial zone of Sri Lanka or by the High Court exercising admiralty jurisdiction.

Jurisdiction of the Courts.

(2) Notwithstanding anything to the contrary in any other written law, every prosecution instituted in respect of an act or omission referred to in Part VIII of this Act shall, be triable by High Court of a Province established under Article 154P of the Constitution, the High Court sitting in any judicial zone of Sri Lanka or by the High Court exercising admiralty jurisdiction and every such Court shall have jurisdiction to impose the maximum penalty provided by this Act.

(3) Where in any proceeding instituted under this Act any matter or question including the exercise of any power in respect of which no provision or adequate provision has been made by or under this Act or any other enactment, the court shall have power to make such orders and give such directions in so far as the same shall not conflict or be inconsistent with any provision made by or under this Act or any other law.

Certificate to be
prima facie
evidence of facts
stated therein.

49. In any prosecution for an offence under this Act, a Certificate issued under the hand of the Chairman to the effect that the pollution specified in the Certificate has in fact been caused, shall be admissible in evidence and shall be *prima facie* evidence of the matters contained therein.

Who may
prosecute.

50. Every prosecution in respect of an offence under this Act shall be conducted by the Attorney-General or by any other officer specially authorized in writing in that behalf.

Regulations.

51. (1) The Minister may make regulations for matters required by this Act to be prescribed and for matters in respect of which regulations are authorized by this Act to be made.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters :—

- (a) specifying the conditions relating to the issue of permits and licences by the Authority and the fees if any to be charged in respect thereof;
- (b) specifying the type of equipment to be fitted in ships for the prevention of pollution;
- (c) specifying any substance or class of substance other than oil which when added to water has the effect of contaminating such water so as to make the water unclean, noxious, impure or detrimental to the health, safety or welfare of any person, or harmful to marine life;
- (d) specifying the manner and form in which and the conditions subject to which the Oil Spill Contingency Plan is to be prepared and submitted;
- (e) specifying the type of equipment required to be installed by any person carrying on any trade, business or industry as the Authority may determine, for the purpose of the eliminating any oil or trade effluent and for the purpose of preventing or

reducing the discharge of any trade effluent into the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka;

- (f) specifying the procedure to be followed in conducting an investigation in respect of any casualties arising out of the discharge of any pollutant or pollutants by ships;
- (g) specifying the conditions subject to which reception facilities shall be provided, including the registration of persons providing such reception facilities and the fees to be levied for the provision of such facilities;
- (h) specifying the procedure to be adopted in respect of the exploration of natural resources including petroleum or any related activity in accordance with such directions as are issued by the Cabinet of Ministers in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka;
- (i) specifying the standards to be maintained by the contractors and operators conducting or engaged in the exploration of natural resources including petroleum or any related activity in accordance with such directions as are issued by the Cabinet of Ministers;
- (j) specifying the standards, the quality of the equipment used, the type of mobile platforms and other related anti-pollution equipment, to be utilized for off-shore and shore based petroleum operations in accordance with such directions as are issued by the Cabinet of Ministers;
- (k) specifying the manner and method of compilation of the initial and the Final Environmental Examination report and the particulars to be specified in such report, the criteria required of the persons who are to be engaged in the compilation of such reports;

- (l) specifying the manner and form in which and the particulars to be contained in the Anti-Pollution Record Book maintained by an Operator; and
- (m) specifying the national standards relating to oily water discharge and the condition relating to marine dumping and the conditions to be adhered when using dynamite explosives ;
- (n) specifying the terms and conditions required to be adhered to, by a contractor relating to off-shore oil storage installation and oil pipe lines, and off-shore testing of oil wells and the measures to be taken for the disposal of oil, or mixtures of oil released into the sea ;
- (o) specifying the measures to be taken where a major oil spill occurs, specify particulars related to the chemical dispersant to be used for control or mitigation of pollution and the manner of utilization of such dispersant;
- (p) prescribe the Form to be used to obtain compensation for environmental damage and identify the particulars which are required to be furnished therein;
- (q) specifying the procedure to be adopted in respect of the exploration of oil in the territorial waters of Sri Lanka or any other maritime zone, its fore-shore and the coastal zone of Sri Lanka;
- (r) identifying the procedure to be followed in the transportation of oil and carrying out of bunkering operations, the fees to be levied for the issue of licences for the same and the terms and conditions subject to which licences may be issued;
- (s) specifying the fees or charges to be levied for the issuing of licences or certificates or for the execution of any other instrument under this Act, for the provision of any services under the Act or for the performance of any essential monitoring functions.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before Parliament for its approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(5) Notice of the date on which any regulation is rescinded shall be published in the *Gazette*.

52. (1) the Minister may give to the Authority general or special directions in writing for the purpose of giving effect to the principles and provisions of this Act and the Authority shall give effect to such directions.

Powers of the Minister in relation to the Authority.

(2) The Minister may, from time to time direct the Authority in writing to furnish to him in such form as he may require returns, accounts and other information with respect to the property and business of the Authority and the Authority shall carry out every such direction.

(3) The Minister may by order require all or any of the activities of the Authority to be investigated and reported upon by a person authorized by him in writing in that behalf, and upon such order being made, the Authority shall afford all such facilities as may be necessary for the implementation of such order.

53. Except where otherwise provided any person who contravenes any provision of this Act, or any regulation made thereunder, shall be guilty of an offence and on conviction be liable to a fine not exceeding rupees three million.

Offences and penalties.

54. (1) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court, shall be paid out of the Fund of the Authority, and

Expenses to be paid out of the Fund.

any costs paid to or recovered by the Authority in any such suit or prosecution, shall be credited to the Fund of the Authority.

(2) Any expenses incurred by any member, officer or servant of the Authority or any member of the Council in any suit or prosecution brought by or against such person before any court, in respect of any act which is done or purported to be done by such person under this Act or on the directions of the Authority or Council, shall, if the Court holds that such act was done in good faith, be paid out of the Fund of the Authority, unless such expenses are recovered by him in such suit or prosecution.

Duty to co-operate.

55. (1) The master of any ship or a person in charge of any apparatus, pipe line, off-shore installation or place on land or any contractor service sub-contractor, operator or any person conducting or engaged in exploration of natural resources including petroleum operation or related activities under a Petroleum Resources Agreement in respect of fixed and mobile platforms and other related installations shall give the Authority or any person Authorized in writing in that behalf by the Authority all reasonable assistance in his power, to enable such Authority or person so authorized to perform or discharge his duties and functions under this Act or any regulations made thereunder and shall furnish to the Authority or any person authorized by the Authority, such information as he may reasonably require for the purpose.

(2) No person shall obstruct or hinders the Authority or any person authorized by the Authority from performing or discharging his duties or functions under this Act or any regulation made thereunder.

(3) Any person who obstructs or hinders the Authority or any person authorized by the Authority from performing or discharging his duties or functions under this Act or any regulations made thereunder shall be guilty of an offence under this Act and shall be liable on conviction to a fine not exceeding rupees five hundred thousand.

56. All members, officers and servants of the Authority shall be deemed to be public officers within the meaning of and for the purposes of the Penal Code.

Officer of the Authority shall be deemed to be a public officer.

57. The Authority shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Authority deemed to be a scheduled institution.

58. Where an offence under this Act is committed by a body of persons then—

Liability of the directors and certain officers for offences committed by that body.

(a) if that body of persons is a body corporate, every person who at the time of the commission of the offence was a director, general manager, agent, secretary or officer holding similar office of that body ; or

(b) if that body is not a body corporate, every person who at the time of the commission of the offence was a member of that body,

shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence so as to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and the related circumstances.

59. The Marine Pollution Prevention Act, No. 59 of 1981 is hereby repealed.

Repeal of Marine Pollution Prevention Act, No. 59 of 1981.

60. Notwithstanding the repeal of the Marine Pollution Prevention Act, No. 59 of 1981-

Savings.

(1) all movable and immovable property which, on the day preceding the appointed date, is vested in the Marine Pollution Prevention Authority, shall vest, with effect from the appointed date, in the Authority;

*Marine Pollution Prevention
Act, No. 35 of 2008*

- (2) all contracts and agreements entered into by or with Marine Pollution Prevention Authority and subsisting on the day preceding the appointed date shall be deemed, with effect from the appointed date, to be contracts and agreements entered into by or with the Authority ;
- (3) all permits memorandum of understanding (m. o. u.) or memorandums of corporation (m. o. c.) issued by the Marine Pollution Prevention Authority and which is in force immediately preceding the appointed date shall be deemed with effect from the appointed date to be permits memorandums of understanding (m. o. u.) or memorandums of corporation (m. o. c.) respectively issued by the Authority ;
- (4) all actions and proceedings instituted by or against the Marine Pollution Prevention Authority and pending, on the day preceding the appointed date, shall be deemed, with effect from the appointed date, to be actions and proceedings instituted by or against the Authority, as the case may be, and may be continued and completed accordingly;
- (5) all members, officers and servants of the Marine Pollution Prevention Authority immediately preceding the appointed date shall be deemed with effect from the appointed date to be members, officers and servants of the Authority ;
- (6) all judgments and orders made in favour or against the Marine Pollution Prevention Authority and remaining unsatisfied on the day preceding the appointed date, shall be, deemed with effect from appointed date to be judgments and orders made in favour or, against, the Authority, as the case may be and may be enforced accordingly ;

- (7) all interests, rights, assets, obligations, debts and liabilities of the Marine Pollution Prevention Authority on the day immediately preceding the appointed date shall be deemed with effect from the appointed date to be interests, rights, assets, obligations, debts and liabilities of the Authority ;
- (8) all rules and regulations made by the Marine Pollution Prevention Authority on the day immediately preceding the appointed date shall be deemed with effect from the appointed date to be rules and regulations of the Authority.

61. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of any inconsistency.

62. In this Act unless the context otherwise requires—

Interpretation.

“any other property” means, any property not permanently and intentionally attached to the shore line and includes freight at risk ;

“barge” means, a contraption which has no means of self propulsion either by way of sails or engine power and which has to be towed or is allowed to drift under the influence of the tide or current and includes a lighter or any similar vessel;

“bunkering” means, the transferring of oil, oil fuel or any oily mixture in the marine environment ;

“Central Environmental Authority” means, the Central Environmental Authority established by the National Environment Act, No. 47 of 1980;

“Ceylon Petroleum Corporation” means, the Ceylon Petroleum Corporation established by the Ceylon Petroleum Corporation Act, No. 28 of 1961 ;

“Classification society” means, Organizations independent of commercial and state influences that determine and publish—

- (a) safety and construction standards for ships, marine craft and other off-shore installations;
- (b) operational procedures of ships, marine craft and other off-shore installations. The level of standards imposed, are indicated by the classification number and letter.

“Coastal Zone” shall have the same meaning as in the Coast Conservation Act, No. 57 of 1981;

“contingency plan” means, a plan to maintain organizational frame work capable of effective response to prevent, reduce, monitor and combat environmental pollution and other pollution related to maritime emergency, such as any casualty, incident, occurrence or situation including failure of industrial installation resulting in pollution or imminent threat of pollution to the marine environment and to manage associated funding, equipment and training programmes ;

“contractor” has the same meaning as in the Petroleum Resources Act, No. 26 of 2003;

“Director of Merchant Shipping” means, the person appointed under section 3 of the Merchant Shipping Act, No. 52 of 1971;

“discharge” in relation to harmful substances or effluent containing such substance means any release caused from a ship or any other source and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying ;

“dumping” means, any deliberate disposal of waste or other matter into the sea and includes putting, throwing, casting or depositing; and the expression “dump” shall be construed accordingly ;

“environment” means, the physical factors of the surroundings of human beings including the land, soil, water, atmosphere, climate, sounds, odours, tastes and the biological factors of animals and plants of every description;

“foreshore” means, that area of the shore of the sea between the mean high water and the mean low water;

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

“Higher Educational Institution” has the same, meaning as in the Universities Act, No. 16 of 1978;

“incident” in relation to pollution means any occurrence or any series of occurrences having the same origin, which cause the damage;

“local authority” means, any Municipal Council, Urban Council or Pradeshiya Sabha and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding or similar to the powers, duties and functions exercised, performed and discharged by any such Council or Sabha;

“mean high water line” means, plus 0.6 meters from the mean sea level;

“mean low water line” means, minus 0.6 meters from the mean sea level ;

“marine environment” means, the factors of the surroundings of human beings and the biological functions effecting animals and plants of every description including land, oil, water, atmosphere, climate, sound and odours, taste, within the marine eco-sphere as defined by the Act;

“marine emergency” means, any casualty, incident, occurrence or situation, however caused, resulting in substantial pollution or imminent threat of substantial pollution to the marine environment by oil ;

“maritime casualty” means, a collision of ships, standing or other incident of navigation or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or its cargo;

“maritime zone” means any maritime zone declared under the Maritime Zones Law, No. 22 of 1976 and includes—

- (a) the Contiguous Zone ;
- (b) the Exclusive Economic Zone ;
- (c) the Continental Shelf; and
- (d) the Pollution Prevention Zone;

declared by Proclamation in terms of the aforesaid Law, and any other Zone which may be declared at a future date under the said Law;

“master” means, in relation to a ship, includes every person except a pilot, having for the time being the command, charge or control of any ship;

“noxious liquid substance” means, any substance designated in Appendix II to the Annex II of International Convention for the Prevention of

Pollution from ships 1973, as modified by the Protocol of 1978 (MARPOL 73/78) or provisionally assessed under the provisions of regulation 3(4) of MARPOL 73/78 as falling into category A, B, C or D thereof;

“occupier” means, the person in actual occupation of a place or if there is no such person, the owner thereof;

“off shore installation” includes—

- (a) any installation or device (whether permanent or temporary) constructed, erected, placed or used in or on or above the sea-bed and subsoil of the territorial waters of Sri Lanka or used in or on any other maritime zone, its fore-shore and the coastal zone of Sri Lanka under such law;
- (b) any installation or device (whether permanent or temporary) constructed, erected, placed or used in or above the sea-bed and sub-soil or the continental shelf, in connection with the exploitation of the natural resources thereof;
- (c) anything afloat (other than a ship), if it is anchored or attached to the bed or shore of the territorial waters of Sri Lanka and the other maritime zones, its fore-shore and the coastal zone of Sri Lanka if it is anchored to the bed of the waters over the continental shelf in connection with exploration for and exploitation of the natural resources thereof;
- (d) any installation or device constructed, erected, placed or used in or above the sea-bed and sub-soil of the territorial waters of Sri Lanka or placed or used above any other maritime zone, its fore-shore and the coastal zone of Sri Lanka the continental in connection with any scientific research activity;

“oil” means, petroleum in any form including crude oil, fuel oil, sludgeoil refuse and refined products, and without limiting the generality of the foregoing;

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

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

“operator” in relation to a ship includes a charterer whether the ship be time chartered, voyage chartered or chartered by demise;

“owner” in relation to a ship means the person registered as the owner or in the absence of registration, the person owing or in possession;

“Petroleum Resource Agreement” has the same meaning as in the Petroleum Resources Act, No. 26 of 2003;

“pipe line” includes all pipe lines inclusive of open and close channels, natural or artificial (man made) used in the conveyance of oil, storm water, sewage, garbage and other pollutants;

“pollutant” means, any substance or any substance that is part of a class of substances, prescribed by the Minister to be a pollutant for the purpose of this Act, and includes nuclear waste and any waste contaminated by such substance whether in liquid solid or gaseous form which alters the Quality of any segment or element of the receiving environment so as to effect any beneficial use adversely or is hazardous or potentially hazardous to health;

“pollution” means, any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the marine environment by the discharge, emission or the deposit of wastes including the introduction by man, directly or indirectly of any substance or energy into

marine life so as to effect any beneficial use adversely or to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare of the animals, birds, wild life aquatic life or to plants of every description and hindrance to marine activity including fishing and other legitimate uses of the sea and impairment of quality of uses of sea water;

“Provincial Council” means, a Provincial Council established by Chapter XVIIIA of the Constitution;

“salvage” means, any act or activity undertaken to assist a vessel or any other property in danger in navigable water or in any other waters;

“ship” means, any vessel or boat or any other description of ship including hydrofoil boats, air cushion vehicles, submersibles, floating craft and fixed or floating platforms and oil rigs, used in navigation in the marine environment and includes all equipment, apparel and appurtenances (excluding supplies for sustenance) which are necessary for the navigation in the marine environment and conduct of the business of the ship;

“territorial waters of Sri Lanka” shall have the same meaning as in the Constitution of the Democratic Socialist Republic of Sri Lanka;

“terminal” means, any terminal (including oil terminal) jetty, pier or non-buoy, yard or dry dock (including the precincts thereof) in which vessels are constructed, reconstructed, repaired, refilled, finished or broken up;

“transfer” in relation to oil or any pollution means transfer in bulk;

“University Grants Commission” means, the University Grants Commission established by the University Act, No. 16 of 1978.

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