

**THE MARINE POLLUTION MANAGEMENT
ACT, 2002**

ST. CHRISTOPHER AND NEVIS

ARRANGEMENT OF SECTIONS

PART 1 - PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II - MANAGEMENT OF HAZARDOUS WASTES

3. Prohibition on Dumping of Hazardous Wastes
4. Prohibition on the Importation of Hazardous Wastes
5. Hazardous Waste in Transit by Sea
6. Duty to Report Spills of Hazardous Wastes
7. Trans-boundary Movement of Hazardous Wastes - General

PART III - CONTROL OF MARINE POLLUTION FROM VESSELS

8. Prohibition on Vessel Discharges into Territorial Sea
9. Ship-Waste Reception Facilities
10. Requirements for the Reception of Ship-Generated Wastes
11. Establishment of Guidelines for the Management of Ship-Waste

PART IV - ON-BOARD MANAGEMENT OF WASTES

12. Requirements for Ships Carrying Oil
13. Requirements for Harmful-Substance Carriers
14. Requirements for Cargo and Passenger Carriers
15. General Requirements for On-Board Management of Ship-Generated Waste

**PART V - INTERVENTION AND LIABILITY IN MARINE POLLUTION
INCIDENTS FROM SHIPS**

16. Intervention on the High Seas in Cases of Pollution Casualties
17. Reporting on Intervention on the High Seas
18. Intervention Measures
19. Liability for Pollution Damage

PART VI - CONTROL OF LAND-BASED SOURCES OF MARINE POLLUTION

20. Dumping of Wastes at Sea
21. Ocean Disposal Management Committee
22. Permit for Disposal at Sea
23. Designation of Marine Disposal Sites
24. Enforcement of Ocean Disposal Permits

PART VII - CONTROL OF LEISURE CRAFT

25. Licensing of Marinas and Facilities for Leisure Craft
26. Management of Marinas and Facilities for Leisure Craft
27. Management of Leisure Craft
28. Fee Structure for Cruising Permit and Charter Vessel Permit

PART VIII - PORT STATE CONTROL

29. Port State Control
30. Port State Control Inspections
31. Port State Control Inspectors
32. Inspection Procedures
33. Report of Marine Accidents
34. Assistance to other MARPOL Member States

PART IX - MONITORING, ENFORCEMENT AND EVIDENCE

35. Monitoring and Enforcement Powers
36. Duty to Report Discharge
37. Reports of Ship Strandings, Wrecks or Abandonment
38. Duty to Report Threatened Discharges
39. Power to Investigate Pollution Incidents
40. Evidentiary Matters
41. Penalties
42. Other Remedies
43. Payment of Fines by Distress
44. Detention of Vessels
45. General Defenses

PART X - REGULATIONS

46. Regulations
47. Act Binds the Crown
48. Transitional Provisions

SCHEDULES

Schedule 1 - Categories of Hazardous Wastes

Schedule 2 - List of Prohibited Wastes and other Matter.

Schedule 3 - Lists of Wastes for which an Ocean Discharge Permit is required.

Schedule 4 - Passenger and Commercial Vessel Examination Form

Schedule 5 - Port State Control Inspection Protocols

Schedule 6 - Format of Inspection Reports

Schedule 7 - Format of Inspectors Reports

Schedule 8 - Format for Exchange of Messages on Port State Control Inspections

Schedule 9 - Application Form for Marine Facilities Operating Permit

Schedule 10 - Code of Good Environmental Practice for Local Harbour Authorities and Marinas

Schedule 11 - Marine Facilities Best Management Practices

ST. CHRISTOPHER AND NEVIS

No. of 2002

A BILL to provide for the protection of ecologically sensitive marine resources; to enhance environmental quality of territorial waters and adjacent international waters; to give effect to certain international conventions relating to pollution of the sea; to implement port-state control to improve management of ship-generated wastes and prevent harm to safety, health and the marine environment from shipping activities; and to encourage good environmental operating practices in commercial, cruise liner and leisure shipping and in ports, marinas and harbours; and for matters connected with or incidental to the foregoing.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:-

PART I - PRELIMINARY

- | | |
|-----------------|---|
| Short title. | 1. This Act may be cited as the Marine Pollution Management Act 2002. |
| Interpretation. | 2. In this Act, unless the context otherwise requires,

"agent" in relation to a ship means an agent of the owner, not being a managing owner, vested with a specific authority by the owner; |

"approved environmental or waste management plan" means an environmental management plan which shall be at least equivalent to the International Organization for Standardization's ISO 14000 series of standards or other comparable international standard;

"Basel Convention 88" means the Convention on the Control of Trans-boundary Movement of Hazardous Wastes and their Disposal, and any amendments that the Minister may by Order declare to be in effect for St. Christopher and Nevis;

"chemical-contaminated waste-waters and wastes" mean waters and wastes discharged or dumped from vessels at sea or anchorage where the chemical contamination meets the definition of "noxious liquid substances" as defined by Annex II of MARPOL 73/78;

"chemical tanker" means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk, except that it shall include an oil tanker as defined in this Act when carrying a cargo or part cargo of noxious liquid substances in bulk;

"clear grounds for believing" include

- (a) The absence of principal equipment or arrangements required by the relevant international instruments;
- (b) evidence from a review of the ship's certificates that a certificate or certificates are clearly invalid;
- (c) evidence that a ship's logs, manuals or other required documentation are not on board, are not maintained or are falsely maintained;
- (d) evidence from general impressions and observations that serious hull or structural deterioration or deficiencies exist that may place at risk the structural, watertight or weathertight integrity of the ship;

- (e) evidence from general impressions or observations that serious deficiencies exist in the safety, pollution prevention, or navigational equipment;
- (f) information or evidence that the master or crew is not familiar with essential shipboard operations relating to the safety of ships or the prevention of pollution, or that such operations have not been carried out;
- (g) indications that key crew members may not be able to communicate with each other or with other persons on board;
- (h) absence of an up-to-date muster list, fire control plan, and for passenger ships, a damage control plan;
- (i) the emission of false distress alerts not followed by proper cancellation procedures;
- (j) receipt of a report or complaint containing information that a ship appear to be substandard;
- (k) any evidence that a vessel has caused or contributed to a marine pollution incident, including photographs, or a report received from nearby vessels or aircraft, indicating the presence of an oil slick, waste stream or pollution trail emanating from a ship;

"designated anchorage" means any coastal area designated as an anchorage under the laws of St. Christopher and Nevis;

"discharge", in relation to harmful substances, means prohibited substances or effluents containing such substances, any release regardless of the way it is caused from a ship and includes any escape, disposal, spilling, leakage, pumping, emission, or emptying, except :

- (a) "dumping" as defined in this Act;
- (b) the release of harmful substances directly arising from the exploration, exploitation and associated offshore processing of sea-bed mineral resources; or

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

"disposal site" means an area in the marine environment or on the shoreline which has been designated or otherwise defined by the Crown as being a place where materials regulated under the London Convention 1972 may be disposed;

"dredged sediment" means bottom mud, sand, rock or other geological materials which have been excavated from a channel, harbour or river for the purposes of improving navigation, navigational access or to limit flooding;

"dumping" means:

- (a) any deliberate disposal at sea of wastes from vessels, aircraft, platforms or other man-made structures at sea;
- (b) any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures;

"exclusive economic zone" means the exclusive economic zone of St. Christopher and Nevis as defined in section 8 of the Maritime Areas Act, 1984 (3/1984);

"foreign organism" includes any organism that does not naturally occur in St. Christopher and Nevis such as any active, infectious or dormant stage of life form, including bacteria, fungi, mycoplasmas, like organisms, as well as entities like viroids, viruses, or any entity characterized as living and related to the foregoing;

"garbage" includes any kind of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of a ship and liable to be disposed of continuously or periodically, and any litter generated on board any ship or aircraft, except oil, noxious liquid substances in bulk, harmful substances in packaged form or sewage from ships;

"harmful substance" means any substance

- (a) which, if introduced into the sea, is likely to
 - (i) create hazards to human health,
 - (ii) harm living resources and marine life,
 - (iii) damage amenities, or
 - (iv) interfere with other legitimate uses of the sea; and
- (b) subject to control by MARPOL 73/78;

"hazardous waste" means any material that belongs to any category contained in Annex I of Schedule 1, unless it does not possess any of the characteristics contained in Annex II of Schedule 1;

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

"internal waters" means the internal waters of Saint Christopher and Nevis as defined in section 5 of the Act No. 3 of 1984. Maritime Areas Act, 1984;

"land-based source" means any place on dry land, or on any reef, or any place connected with dry land or a reef, and which serves as a source, release point or non-specific discharge area of actual or potential polluting materials to the marine environment;

"leisure craft" - means vessels used, chartered or operated primarily for recreational or leisure activities including sailing, recreational diving, cruising or sport fishing;

"local harbour authority" means an entity appointed by the Crown and which is responsible for the operation and management of any port, harbour or marina outside of

those ports specifically designated as being under the management of the Port Authority;

"London Convention '72" means the Convention for the Prevention of Marine Pollution by Dumping of Waste and Other Matter, 1972, and any amendments that the Minister may by Order declare to be in effect for St. Christopher and Nevis;

"maritime casualty" means a collision of ships, stranding or other incident of navigation, or other occurrence aboard a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or cargo, or to the environment;

"MARPOL 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, and any amendments that the Minister may by Order declare to be in effect for St. Christopher and Nevis;

"master", in relation to a ship, includes every person having command or charge of any ship, other than a pilot;

"Minister", unless otherwise specified, means the Minister responsible for Maritime Affairs;

"noxious liquid substance" means any substance designated in Appendix II to Annex II of MARPOL 73/78;

"oil" includes petroleum in any form such as crude oil, fuel oil, sludge, oil refuse, and refined products, other than petrochemicals, and without limiting the generality of the foregoing, includes also the substances listed in Appendix I to Annex I of MARPOL 73/78;

"oil tanker" means a ship constructed or adapted primarily for the purpose of carrying oil in bulk in its cargo spaces, except that any combination carrier and a "chemical tanker" as defined in this Act when carrying cargo or part cargo of oil in bulk shall be deemed to be oil tankers;

"oily waste" means any waste containing oil, oily mixture or other petroleum hydrocarbon materials wherein the concentration of hydrocarbons exceeds 10 mg/L of the discharge;

"owner", in relation to

- (a) any vessel, means,
 - (i) in the case of a registered vessel, the registered owner;
 - (ii) in the case of an unregistered vessel, the person actually owning the vessel;

- (b) any vessel, includes, in the case of a vessel owned by a Crown,
 - (i) the person registered as the operator of the vessel;
 - (ii) any charterer, manager, or operator of the vessel or any other person for the time being responsible for the navigation or management of the vessel;
 - (iii) any agent of the owner, charterer, manager or operator;
 - (iv) any agent for the vessel; or
 - (v) any other person interested in or in possession of the ship, any salvor in possession of the vessel, and any employee or agent of any salvor in possession of the vessel;

- (b) any fixed or floating platform or any other man-made structure located in or on the sea or seabed, includes
 - (i) any person having a right or privilege or licence to explore the seabed and subsoil and to exploit the natural resources thereof in connection with which the platform or structure is or has been or is to be used; and
 - (ii) any agent or employee of the owner or manager or licensee for the time being of the platform or structure, or any person in charge of operations connected therewith;

"pollution" means the introduction, either directly or indirectly, of substances or energy into the environment, which results in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities including fishing and other legitimate uses of the sea, impairment of the quality or use of water, air and soil, and reduction of amenities;

"pollution damage" means

- (a) damage or loss of value caused outside a vessel by pollution resulting from the discharge, release or escape of any harmful substance from the vessel, wherever such escape or discharge may occur; and
- (b) the costs of reasonable measures taken to prevent or reduce pollution damage, and any further loss or damage occurring as a result of such measures;

"Port Authority" means the Port Authority established under section () of the Port (Authority) Act;

"Port State Control Secretariat" means the regional authority designated to co-ordinate the administration and dissemination of information relating to Port State Control under the Memorandum of Understanding Concerning the Establishment of Port State Control in the Caribbean Region concluded at Bridgetown, Barbados on the seventh day of August 1996;

"related interest" means the interests of St. Christopher and Nevis directly affected or threatened by the maritime casualty, and without prejudice to the generality of the foregoing includes:

- (a) maritime coastal, port or estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
- (b) tourist attractions of the area concerned;
- (c) the health of the coastal population and well-being of the area concerned, including conservation of living marine resources and of wildlife;

"relevant international instruments" means:

- (a) the International Convention on Load Lines, 1966;
- (b) the International Convention for the Safety of Life at Sea, 1974, as amended by (SOLAS 74);
- (c) the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;
- (d) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78);
- (e) the International Convention on Standards for Training, Certification and Watch-keeping of Seafarers, 1978 (STCW 78);
- (f) the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- (g) the Merchant Shipping (Minimum Standards) Convention, 1976, and any amendments that the Minister may by Order declare to be in effect for St. Christopher and Nevis, and such other international agreement as may be approved by the Minister, by Notice in the *Gazette*;

"sewage" means:

- (a) drainage and other wastes from any form of toilets, urinals, and WC scuppers;
- (b) drainage from medical premises via wash basins, wash tubs and scuppers located in such premises;
- (c) drainage from spaces containing living animals; or
- (d) other waste waters when mixed with the drainage defined above;

"ship" includes a vessel of any type operating in the marine environment, hydrofoils, air-cushion vehicles, submersibles, floating craft, and fixed or floating platforms, except a leisure craft;

"Solid Waste Management Authority" means the Authority established under the Solid Waste Management Authority Act;

"St. Christopher and Nevis ship" - means a ship which is registered or licensed in St. Christopher and Nevis under the laws of St. Christopher and Nevis, or is otherwise entitled to fly the flag of St. Christopher and Nevis;

"territorial sea" means the territorial sea of St. Christopher and Nevis as defined in section 12 of the Maritime Areas Act, 1984;

"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 the purpose and scope of the investigation, inspection, survey or other cause for detaining a ship;

"untreated ballast water" means ballast water which contains oil, any harmful substance or any foreign organism and which has not been subjected to an effective process for separating the harmful substance or foreign organism from the water;

"vessel" means a waterborne craft of any type, whether self-propelled or not;

"waste", in respect of any discard from a ship, means material and substance of any kind, form or description.

PART II - MANAGEMENT OF HAZARDOUS WASTES

Prohibition on
Dumping of
Hazardous Wastes.

3. (1) No person shall dump, discharge or cause to be discharged, any hazardous waste into:

- (a) the territorial sea, or any coastal or inland waters of St. Christopher and Nevis; or
- (b) any marine area outside the territorial sea of St. Christopher and Nevis from an St. Christopher and Nevis ship, aircraft, hovercraft or marine structure.

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and shall be liable, on summary conviction, to a fine of \$5,000,000 or to imprisonment for a term not exceeding ten years, or both.

Prohibition on the
Importation of
Hazardous waste.

4. (1) No person shall import into St. Christopher and Nevis any hazardous waste.

(2) Any person contravenes subsection (1) of this section commits an offence and liable, on summary conviction, to a fine of \$1,000,000 or imprisonment for a term not exceeding five years, or both.

Hazardous Waste
in Transit by Sea.

5. (1) Before transporting any hazardous waste through the exclusive economic zone, the owner or master of the vessel that is to transport the hazardous waste shall apply to the Maritime Authority for a Permit for the Trans-boundary Transportation of the Hazardous Waste.

(2) Any application for a permit submitted under the provisions of sub-section (1) of this section shall contain the following, that is to say,

- (a) a full and accurate description of the hazardous waste to be transported through the exclusive economic zone, including the technical and common name, the United Nations Class, and a statement of the quantities to be transported;
- (b) the name of the State that is to receive the hazardous waste and documentary proof that such State possesses:
 - (i) the technical capacity to dispose of the hazardous wastes in an environmentally sound and efficient manner; and
 - (ii) the facilities, capacity or suitable disposal sites or recycling procedures to dispose of the hazardous wastes in an environmentally sound and efficient manner;
- (c) the consent in writing from such State to receive the specific import;
- (d) the name and particulars of the vessel on which the hazardous waste is to be transported through the exclusive economic zone;
- (e) the seaport from which the vessel is to depart;
- (f) the seaport at which the vessel is to arrive;

- (g) the estimated time and date of transit through the exclusive economic zone; and
- (h) any special cargo transportation or storage requirements pertaining to any hazardous waste that is to be transported.

(3) Upon receipt of any application under the provisions of sub-section (2) of this section the Maritime Authority may require the applicant to provide any additional information that it considers necessary for the determination of an application.

(4) Having reviewed any application made under this section, the Maritime Authority may

- (a) refuse permission for the transit of any hazardous waste through the exclusive economic zone; or
- (b) issue a Permit for the Trans-boundary Transportation of Hazardous Waste, in which permit certain conditions maybe specied, and without prejudice to the generality of the foregoing such conditions may include any of the following, that is to say,
 - (i) requirements that the vessel be escorted through the exclusive economic zone at the expense of the owner of the vessel;
 - (ii) that a suitable prohibition zone be established around the vessel to ensure that other shipping remains at a safe distance from the vessel transporting hazardous waste;
 - (iii) requirements concerning the time and route of the passage through the exclusive economic zone;
 - (iv) that the ship meets international standards relating to safety, watchkeeping, and marine pollution insurance;
 - (v) the prohibition on transportation of hazardous waste through the exclusive economic zone in adverse weather conditions.

(5) Any Permit issued under sub-section (4) of this section for the Trans-boundary Transportation of Hazardous Waste shall contain the following information:

- (a) the identity and quantity of each hazardous waste being transported through the exclusive economic zone;
- (b) the particulars of the vessel on which the hazardous waste is to be carried;
- (c) the seaport at which the vessel is to arrive;
- (d) the estimated time and date of transit through the exclusive economic zone; and
- (e) any special cargo transportation or storage requirements pertaining to any hazardous waste that is to be exported from the country.

(6) If the Maritime Authority no longer considers that the hazardous waste can be transported through the exclusive economic zone without causing an undue threat of harm to human health, safety of the environment, the Maritime Authority may, at any time:

- (a) cancel the Permit for the Trans-boundary Transportation of Hazardous Waste that is issued under sub-section (4) of this section;
- (b) issue such directions as it may consider appropriate for the immediate cessation of the movement of the hazardous waste, and for their removal from the exclusive economic zone.

(7) Any person who fails to comply with any condition specified in a Permit for the Trans-boundary Transportation of Hazardous Waste, or with any direction, requirement or condition imposed by the Maritime Authority commits an offence and shall be liable, on summary conviction, to a fine of \$100,000 or imprisonment for a term not exceeding one year, or both.

(8) The master and owner of any vessel that discharges, or causes to be discharged, any hazardous waste in the exclusive economic zone in violation of any condition specified in a Permit issued for the Trans-boundary Transportation of Hazardous Waste commits an offence and shall be liable, on summary conviction, to a fine of \$1,000,000 or imprisonment for a term not exceeding five years, or both.

Duty to Report
Spills of Hazardous
Wastes.

6. (1) The owner or master of any vessel that accidentally discharges or spills any hazardous waste in the exclusive economic zone shall notify the Maritime Authority of the spillage immediately.

(2) Any person who fails to comply with the requirement of sub-section (1) of this section commits an offence and shall be liable, on summary conviction to a fine of \$100,000 or to imprisonment for a term not exceeding one year, or both.

(3) Where notification required under the provisions of sub-section (1) of this section is not received by the Maritime Authority within a reasonable time and in all events within twenty four hours in any spill, it shall be presumed that any spillage was intentional and the master shall be liable to the penalties provided in section 11. (2) of this Act.

Trans-boundary
Movement of
Hazardous Wastes -
General.

7. (1) The loading or the incineration of hazardous wastes within the exclusive economic zone is hereby prohibited.

(2) The export or transport of hazardous wastes to or through St. Christopher and Nevis is hereby prohibited.

(3) Any person who violates the provisions of sub-sections (1) or (2) of this section commits an offence and shall be liable, on summary conviction, to a fine of \$1,000,000, or imprisonment for a term not exceeding five years, or both.

PART III - CONTROL OF MARINE POLLUTION FROM VESSELS

Prohibition on Vessel
Discharges into
Territorial Sea

8. (1) In this section a "prohibited substance" refers to:

- (a) oil or oily wastes;
- (b) any noxious liquid substance;
- (c) any harmful substance in packaged forms, or in freight containers, portable tanks or road and rail tank wagons;
- (d) any sewage except that produced by coastal craft or recreational vessels of less than 13 m length;
- (e) any garbage or solid wastes;
- (f) any plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags.

(2) No person shall dump or discharge a prohibited substance from any vessel, platform, structure or apparatus into the territorial waters of Saint Christopher and Nevis.

(3) No person shall dump or discharge a prohibited substance from an Saint Christopher and Nevis ship into any part of the sea outside St. Christopher and Nevis waters.

(4) A person who contravenes the provisions of sub-section (2) or subsection (3) of this section commits an offence and shall be liable, on summary conviction, to a fine of \$1,000,000, or imprisonment for a term not exceeding five years, or both.

(5) Where a prohibited substance is dumped or discharged into the territorial waters of St. Christopher and Nevis the master or owner of the vessel, or owner or the person in charge of the platform, structure or apparatus, as the case may be, shall be civilly liable for all damage caused.

(6) In the event of an accidental discharge of a prohibited substance into territorial waters, it shall be the responsibility of the master or owner of the vessel, or the owner or the person in charge of the platform, structure or apparatus, as the case may be, to immediately notify the Maritime Authority, established under Part VIII of this Act, of the nature and location of such accidental discharge.

(7) A person who fails to comply with the requirement of sub-section (6) of this section commits an offence and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

(8) Where notification in terms of the provisions of sub-section (6) of this section is not received by the Maritime Authority within two hours of a discharge, it shall be presumed that any discharge was intentional and the master or owner shall be liable to the penalties provided in sub-section (4) of this section.

Ship-Waste
Reception Facilities

9. (1) It shall be the responsibility of the Port Authority, in association with the Solid Waste Management Corporation, to ensure that adequate facilities are provided for the reception of wastes generated from ships at:

- (a) commercial ports; and
- (b) any designated anchorage for ships.

(2) Pursuant to the provisions of subsection (1) of this section, reception facilities shall be provided, where appropriate, for the following classifications of wastes, that is to say,

- (a) oil, oil contaminated waste-water and oily wastes;
- (b) noxious liquid substances, chemical-contaminated waste-waters and chemical wastes in bulk of packaged form, or other hazardous wastes;

- (c) sanitary sewage sludge;
- (d) garbage and other solid wastes; and
- (e) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags.

(3) It shall be the responsibility of the Solid Waste Management Corporation to ensure that adequate facilities are provided at:

- (a) local harbour authority ports;
- (b) marinas;
- (c) mooring areas used by leisure craft; and
- (d) designated anchorages for leisure craft;

for the reception of wastes generated by leisure craft, including, where appropriate, reception facilities for the classifications of wastes specified in subsection (4) of this section.

(4) The classifications of wastes referred to in subsection (3) of this section are:

- (a) oil, oil-contaminated waste-waters and oily wastes;
- (b) sanitary sewage sludge;
- (c) garbage and solid wastes; and
- (d) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags.

(5) It shall be of responsibility the Solid Waste Management Corporation to receive and to provide for the final disposal of wastes received at:

- (a) commercial ports;
- (b) local harbour authority ports;
- (c) marinas; and
- (d) designated anchorages.

(6) In providing and maintaining waste reception facilities as required under subsection (5) of this section, the Port Authority and the Solid Waste Management Corporation shall ensure that undue delay is not caused to vessels, and for this purpose shall undertake regular inspections to ensure the adequacy and efficiency of the facilities.

(7) Nothing in this section shall be construed as requiring the Port Authority or the Solid Waste Management Corporation to allow untreated oil-contaminated ballast water to be discharged into any reception facilities.

(8) The Port Authority providing waste reception facilities, may, in consultation with the Solid Waste Management Authority and the Local Harbour Authorities, make reasonable charges for the use of facilities, and may impose reasonable conditions in respect of the use of the facilities.

Requirements for
the Reception of
Ship-Generated
Wastes.

10. (1) Where any waste is to be discharged to any reception facilities provided pursuant to the requirements of section 9. (4) of this Act the owner or master of the ship shall, at least 48 hours before the wastes are to be landed, or if this is not practicable, as soon as practicable thereafter, give notice to the Port Authority at the port in which the waste is to be landed.

(2) The notice given in compliance with the provisions of sub-section (1) of this section shall specify:

- (a) the nature and volume of the waste to be discharged;
- (b) the seaport at which the ship is to arrive;
- (c) the estimated time and date of arrival of the ship; and
- (d) any special waste discharge requirements.

(3) On receipt of the notice provided pursuant to the provisions of sub-section (2) of this section, the Port Authority shall consult with the Solid Waste Management Corporation and, where appropriate, the Ministry of Health to verify that:

- (a) adequate facilities can be provided for the reception and management of the waste;
- (b) the nature or volume of waste can be treated in a manner that would not cause a threat of harm to human health, safety or the environment; and

- (c) adequate arrangements can be made to facilitate the discharge of any waste specified in subsection (2) (a) without causing undue delays to the ship.

(4) Having consulted with the Solid Waste Management Corporation and, where appropriate, the Ministry of Health as specified in sub-section (3) of this section, the Port Authority, shall grant permission for the discharge of waste if:

- (a) adequate facilities can be provided for the reception and management of the waste;
- (b) the nature or volume of waste can be treated in a manner that would not cause a threat of harm to human health, safety or the environment; and
- (c) adequate arrangements can be made to facilitate the discharge of any waste specified in subsection (2) (a) without causing undue delays to the ship,

and may impose such terms and conditions that it considers appropriate for the safe and orderly discharge of waste.

(5) After the provisions of subsection (4) of this section are complied with the Port Authority shall thereafter

- (a) advise the responsible shipping agent of the arrangements that have been made for the discharge of the waste, and where appropriate;
- (b) advise the master of the vessel of any requirements or conditions concerning the discharge of any waste.

(6) In providing for the discharge and management of waste from any vessel, the Solid Waste Management Corporation shall ensure compliance with any requirement imposed by the Ministry of Health and Environment concerning the disposal of imported substances that are subject to quarantine, and without limiting the generality of the foregoing shall ensure that all such substances are immediately removed to a controlled area for final disposal.

(7) It shall be the responsibility of the owner and master of the ship or his agent to take all appropriate precautions when unloading any waste to prevent spillage, and ensure that the waste is discharged in accordance with any requirement or conditions specified by the Port Authority under the provisions of subsection (3)(d) of this section.

(8) No ballast water shall be discharged into any reception facilities without the permission of the Port Authority, which permission shall not be given unless the ballast water is treated to less than 10 ppm hydrocarbons and only if it can be verified that the ballast water does not contain any foreign organisms.

(9) Prior to discharging any waste into facilities provided under section 9. (4) of this Act, the owner or master of a ship shall ensure that all ship-generated wastes are securely packaged so as to prevent spillage, and shall identify the type of wastes and the ship from which the wastes originated.

(10) Except in emergency situations, the Port Authority and the Solid Waste Management Corporation may refuse to receive any wastes that may be subject to quarantine restrictions, any incinerator ash or other hazardous materials, or sludge from ship-generated sanitary sewage treatment facilities.

Establishment of
Guidelines for the
Management of
Vessel-Waste

11. (1) The Port Authority, in consultation with the Solid Waste Management Corporation and the Ministry of Health and Environment, may issue guidelines and codes of practice concerning the following, that is to say,

- (a) the discharge, storage and management of any waste discharged to port waste reception facilities;
- (b) the establishment of emergency and response procedures in the event of any spill, fire or explosion;
- (c) the establishment of any training requirements or programs concerning the management, storage or handling of any waste discharged to waste reception facilities;
- (d) the establishment of any training requirements or programs concerning emergency and response procedures in the event of any spill, fire or explosion.

(2) In making the guidelines or codes of practice under the provisions of sub-section (1) of this section, the Port Authority shall ensure the broadest possible consultation with the representatives of the shipping industry, the leisure craft industry, Local Harbour Authorities and marina management.

PART IV - ON-BOARD MANAGEMENT OF WASTES

Requirements for
Ships Carrying Oil.

12. (1) Every

- (a) oil tanker; and

- (b) Saint Christopher and Nevis ship with cargo spaces utilized to carry oil in bulk of an aggregate capacity of 200 cubic meters or more, carrying oil or petroleum products in territorial waters; shall satisfy the requirements specified in subsection (2) of this section.
- (2) An oil tanker or ship referred to in subsection (1) of this section shall possess
- (a) a valid International Oil Pollution Prevention Certificate in accordance with the provisions of Regulation 4 of Annex I of MARPOL 73/78;
 - (b) an Oil Record Book Part I (Machinery Space Operations) in accordance with the provisions of Regulation 20 of Annex I of MARPOL 73/78; and
 - (c) a ship-board oil pollution emergency plan that is in conformity with international standards for such plans.
- (3) The Oil Record Book shall be completed on each occasion, on a tank to tank basis, whenever any of the following operations takes place in the ship, that is to say,
- (a) for machinery space operations,
 - (i) ballasting or cleaning of oil fuel tanks;
 - (ii) discharge of dirty ballast or cleaning water from tanks;
 - (iii) disposal of oily residue;
 - (iv) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces.
 - (b) for cargo or ballast operations,
 - (i) loading of oil cargo;
 - (ii) internal transfer of oil during voyage;
 - (iii) unloading of oil cargo;
 - (iv) ballasting of cargo tanks and dedicated clean ballast tanks;
 - (v) cleaning of cargo tanks including crude oil washing;
 - (vi) discharge of ballast except from segregated ballast tanks;
 - (vii) discharge of water from slop tanks;

- (viii) closing of all applicable valves or similar devices after slop tank discharge operations;
- (ix) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations;
- (x) disposal of residue.

(3) In the event of a discharge of oil or oily mixture, or in the event of an accidental or other exceptional discharge of oil or oily mixture, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge.

(4) Each operation described in sub-section (2) of this section shall be fully recorded in the Oil Record Book without delay, and shall be signed by the officer in charge of the operations concerned, and each completed page shall be signed by the master of the ship.

(5) The Oil Record Book shall be kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship, and shall be kept for a period of three years after the last entry was made.

(6) In the event that any requirements in this section are not complied with, the master or owner of the vessel commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

Requirements for
Harmful Substance
Carriers

13. (1) Every

- (a) chemical tanker; and
- (b) St. Christopher and Nevis ship, carrying noxious liquid substances in bulk in territorial waters shall satisfy the requirements specified in subsection (2) of this section.

(2) A chemical tanker or ship referred to in subsection (1) of this section shall possess:

- (a) a valid International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in accordance with the provisions of Regulation 11 of Annex II of MARPOL73/78; and

- (b) a Cargo Record Book kept in accordance with the provisions of Regulation 9 of Annex II of MARPOL 73/78.

(2) The Cargo Record Book shall be completed on each occasion, on a tank to tank basis, whenever any of the following operations with respect to noxious liquid substances take place in the ship, that is to say,

- (a) loading of cargo;
- (b) internal transfer of cargo;
- (c) unloading of cargo;
- (d) cleaning of cargo tanks;
- (e) ballasting of cargo tanks;
- (f) discharge of ballast from cargo tanks;
- (g) disposal of residues to reception facilities;
- (h) removal by ventilation of residues.

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

(4) Each operation described in sub-section (2) of this section shall be fully recorded in the Cargo Record Book without delay, and shall be signed by the officer in charge of the operations concerned, and each completed page shall be signed by the master of the ship.

(5) The Cargo Record Book shall be kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship, and shall be kept for a period of three years after the last entry was made.

(6) The owner or master of any vessel who fails to comply with the requirement of this section commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

Requirements for
Cargo and Passenger
Carriers

14. (1) Every ship

- (a) of 200 tons gross tonnage and above carrying cargo; or
- (b) carrying more than 10 passengers in territorial waters; shall possess a valid International Sewage Pollution Prevention Certificate in accordance with standards established under Annex IV of MARPOL 73/78.

(2) In the event of a discharge of any sewage or sewage sludge, whether intentional or accidental, a statement shall be made in the ship's records of the circumstances of, and the reasons for, the discharge.

(3) Each operation described in subsection (2) of this section shall be fully recorded in the ship's records without delay, shall be signed by the officer in charge of the operations concerned, and each completed page shall be signed by the master of the ship.

(4) The ship's records shall be kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship, and shall be kept for a period of three years after the last entry was made.

(5) The owner or master of any vessel who fails to comply with the requirement of this section commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000 or to imprisonment for a term not exceeding one year, or both.

(6) In addition to the requirements of this section, every locally registered ship and every vessel carrying cargo or passengers shall, where appropriate, comply with the requirements for the control of pollution as provided in the Annexes to MARPOL 73/78.

General Require-
ments for On-Board
Management of
Ship-Generated Waste

15. (1) Notwithstanding the provisions of sections 7, 8, and 9 of this Act, any ship shall have on board:

- (a) garbage disposal record books; and
- (b) a comprehensive waste management plan;

in compliance with internationally recognised shipping industry standards.

(2) All ships shall maintain waste manifest and waste disposal record books.

(3) The Port Authority, the Solid Waste Management Corporation and any other competent authority may inspect record books required to be kept in accordance with this section.

(4) The owner or master of any ship who fails to maintain waste record books required by this section or who falsifies entries in such books commits an offence and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

PART V -INTERVENTION AND LIABILITY IN MARINE POLLUTION INCIDENTS

Intervention on
the High Seas in
Cases of Pollution
Casualties

16. (1) Subject to the provisions of section 17 (1) of this Act, the Maritime Authority, the Coastguard or any other authorized authority may take such measures on the high sea as may be necessary to prevent, mitigate or eliminate grave and imminent danger to the coastline or related interests from pollution or threat of pollution of the sea by

(a) oil; or

(b) any hazardous wastes or harmful substance;
following upon a maritime casualty or acts related to such casualty, which may reasonable be expected to result in pollution damage.

(2) Measures taken by the Maritime Authority, the Coast Guard or any authorized authority pursuant to the provisions of subsection (1) of this section shall

(a) be proportionate to the actual or threatened damage; and

(b) not go beyond what is reasonably necessary to prevent, mitigate or eliminate grave and imminent danger to the coastline or related interests from pollution or threat of pollution of the sea by oil or any hazardous wastes or harmful substance.

(3) In considering whether the measures are proportional to the damage, as provided in sub-section (2) of this section account shall be taken of

(a) the extent and probability of imminent damage if those measures are not taken;

(b) the likelihood of those measures being effective; and

- (c) the extent of the damage which may be caused by such measures.

(4) Measures taken by the Maritime Authority, the Coast Guard or any authorized authority pursuant to the provisions of subsection (1) of this section shall not unnecessarily interfere with the rights and interests of the flag State, the owner of the vessel, or the crew aboard the vessel.

Reporting on
Intervention on
the High Seas

17. (1) Prior to the taking of measures provided for in section 16 (1) of this Act, the Maritime Authority shall consult with any other State affected by the maritime casualty, particularly the flag State.

(2) The Maritime Authority shall, without delay and prior to taking any measures under section 16, notify anyone known to have interests in the matter, about the measures that are to be taken pursuant to the provisions of section 16 (1) of this Act.

(3) In cases of extreme urgency requiring measures to be taken immediately, the Maritime Authority may take measures rendered necessary by the urgency of the situation, without prior notification as required under subsection (1) of this section.

(4) Prior to the taking of any measures provided for in Section 16 (1) of this Act and during the course of any measures, the Maritime Authority, the Coast Guard or any delegated authority shall

- (a) endeavour to avoid any risk to human life;
- (b) afford to any person in distress any assistance that may be needed; and
- (c) where appropriate, facilitate the repatriation of ship's crews and raise no obstacle thereto.

Intervention Measures

18. (1) Measures that may be taken pursuant to the provisions of section 16 (1) of this Act may include, though not limited to,

- (a) the issuing of any instructions to the master or owner of the vessel, or to any person in charge of any salvage operation in respect of the vessel, requiring specific action to be taken or that no specific action be taken with respect to the vessel or its cargo, or both, or to the platform or structure or to operations thereon, or both, as the case may be;

- (b) the removal to another place of the vessel or its cargo, or both;
- (c) the removal of cargo from the vessel; or
- (d) the salvage of the vessel or its cargo, or both;
- (e) the sinking or destruction of the vessel or the destruction of the cargo, or both;
- (f) the taking over of control of the vessel;
- (g) the issuing of instructions to the master of vessel within territorial waters, to render assistance to any vessel that is or is likely to be a maritime casualty; and
- (h) the issuing of instructions to the master of any vessel in territorial waters, to take on board any equipment, to sail to any place, to render assistance to any vessel assisting in a maritime casualty or to assist in any operations for the cleaning up, removal, or dispersal of any oil or harmful substance and to obey the instructions of any person authorized under this section to exercise control over or responsibility for the maritime casualty.

(2) Measures that have been taken pursuant to the provisions of this section shall be notified by the designated authority without delay to

- (a) where appropriate, the flag State concerned;
- (b) the owner of the vessel; and
- (c) the International Maritime Organization (IMO) as required under the provisions of the *International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties*.

(3) Where any action duly taken by a person pursuant to the provisions of Section 18 (1) of this Act

- (a) was not reasonably necessary to eliminate, prevent or reduce pollution or the grave risk of pollution damage;

- (b) was such that the good it did or was likely to do was disproportionately less than the expenses incurred, or the damage suffered as a result of the action;

a person incurring expenses or suffering damage as a result of, or by himself taking, the action, shall be entitled to recover compensation from the Crown.

(4) In considering whether subsection (3) of this section applies, account shall be taken of:

- (a) the extent and probability of imminent damage if the measures had not been taken;
- (b) the likelihood of the measures taken being effective; and
- (c) the extent of the damage which has been caused by the measures taken.

(5) Any dispute as to

- (a) whether measures taken under this Part were in contravention of the provisions of the *International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties*;
- (b) whether compensation is obliged to be paid;
- (c) the amount of compensation to be paid; shall, if settlement by negotiation has not been possible, and if there is no agreement to the contrary, be submitted upon the request of any party to the dispute, to conciliation or, if conciliation does not succeed, to arbitration as set out in the Annex to the *International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties*.

(6) Any person who

- (a) fails to comply with any instructions issued by a lawful authority pursuant to this Part or by any person authorized by the authority; or
- (b) wilfully obstructs a person acting in compliance with any instructions issued by a lawful authority pursuant to the provisions of this Part or by any person authorized by the authority; or

- (c) wilfully obstructs the lawful authority or any person acting on behalf of the authority in carrying out any of the powers conferred by this Part;

commits an offence and shall be liable on summary conviction to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

(7) In any proceedings for an offence under this section it shall be a defense to prove, on the balance of probabilities, that

- (a) the failure to comply with any instructions issued under sub-section (1) of this section resulted from the need to save life at sea;
- (b) the wilful obstruction of
 - (i) any person acting in compliance with such instruction duly issued, or
 - (ii) any person acting on behalf of the designated authority, resulted from the need to save life at sea;
 or
- (c) the person charged with the offence used all due diligence to comply with any instructions issued by the designated authority pursuant to sub-section (1) of this section, or by any person authorized by the designated authority.

Liability for
Pollution Damage

19. (1) The owner or master of the vessel at the time of a maritime casualty or marine pollution incident, or where the casualty or incident consists of a series of occurrences at the time of the first such occurrence, shall be liable for any pollution damage caused by the vessel as a result of the incident.

(2) No liability shall attach to the owner if he proves that the damage

- (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;
- (b) was wholly caused by an act or omission done with intent to cause damage by a third party not in the employ of the owner;
- (c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids.

(3) Where any pollution incident involving two or more vessels occurs and pollution damage results, the owners of all the vessels concerned, unless exonerated under the provisions of subsection (2) of this section, shall be jointly and severally liable for the damage which is not reasonably separable.

(4) In any claim for pollution damage caused by a vessel as a result of any incident involving pollution by oil or oily waste, the provisions of Article V of the *International Convention on Civil Liability for Oil Pollution Damage, 1969 as amended by its Protocol of 1992*, and Article 4 of the *International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended by its Protocol of 1992*, shall apply concerning the limitation of any liability and the payment of any claim.

(5) The owner of any vessel carrying more than 2,000 tons of oil in bulk as cargo shall maintain insurance or other financial security in the sums fixed by applying the limits of liability prescribed in Article V, paragraph 1 of the *International Convention on Civil Liability for Oil Pollution Damage, 1984*.

(6) Any certificate issued pursuant to the provisions of sub-section (5) of this section shall be carried on board the vessel, and in respect of locally registered vessels, a copy shall be lodged with the Maritime Authority.

(7) No vessel falling within the requirements of subsection (5) of this section shall carry any oil in bulk without a valid certificate.

(8) The owner and master of any vessel that operates in contravention of the provisions of subsection (7) of this section, commits an offence and shall be liable, on summary conviction, to a fine of \$300,000, or imprisonment for a term not exceeding two years, or both.

(9) Any claim in respect of compensation for pollution damage may be brought directly against the insurer or other person providing financial security under the provisions of sub-section (5) of this section.

PART VI - CONTROL OF LAND-BASED SOURCES OF MARINE POLLUTION

Dumping of
Wastes at Sea

20. (1) The dumping or discharging from any land-based source of any waste or any harmful substance specified in Part A of Schedule 2 to this Act into the territorial sea of St. Christopher and Nevis is hereby prohibited.

(2) The dumping or discharging of any waste or any harmful substance specified in Part B of Schedule 2 into the territorial sea from any land-based source without a permit issued by the Ocean Disposal Technical Committee under section 21, is hereby prohibited.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable, on summary conviction, to a fine of \$1,000,000, or imprisonment for a term not exceeding five years, or both.

(4) Where a person is charged with an offence under subsection (1) or (2) of this section, it shall be a defense to prove that dumping was necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if it is probable that the damage consequent upon such dumping will be less than would otherwise occur.

(5) A person claiming the defense under the provisions of subsection (4) of this section bears the burden of proving the elements of that defense.

(6) Any dumping conducted pursuant to the provisions of subsection (4) shall be conducted in such a manner as to minimize the likelihood of damage to human or marine life, and shall be immediately reported to the Maritime Authority established under Part VII of this Act.

Ocean Disposal
Management
Committee

21. (1) There shall be established an inter-departmental committee to be known as the Ocean Disposal Management Committee.

(2) The Ocean Disposal Management Committee established under subsection (1) of this section shall comprise of the following persons, that is to say,

- (a) the Director of Environment, who shall be the Chairperson of the Committee;
- (b) the Director of Health;
- (c) the Director of Fisheries;
- (d) the Director General of the Port Authority; and
- (e) the Commander of the Coastguard.

(3) In addition to the members listed in subsection (2) of this section, the Minister may appoint a maximum of two additional members to the Ocean Disposal Management Committee, one of whom shall be nominated by the marine industry, and the other of whom shall be nominated by a coastal community organization.

(4) A member appointed under subsection (3) of this section shall hold office for a term that the Minister considers appropriate and may be removed at any time by the Minister for just cause.

(5) Four members of the Ocean Disposal Management Committee constitute shall form a quorum.

(6) The Ocean Disposal Management Committee shall carry out the following functions and duties, that is to say,

- (a) the administration of the permit system established under this Part;
- (b) the monitoring and enforcement of permit requirements and conditions under this Part;
- (c) to provide advice to the Minister concerning the designation of any area as a Marine Disposal Site under section 23 of this Act, or measures that should be established for the management of any such area; and
- (d) such other duties and functions as may be directed by the Minister to give effect to the requirements of this Part.

(7) No criminal or civil liability shall attach to any member of the Ocean Disposal Management Committee in respect of anything done, or omitted to be done, in good faith under the provisions of this Act.

Permit for
Disposal at Sea

22. (1) Any person who wishes to dump or discharge any waste or other matter identified in Schedule 3 into the territorial sea from any land-based source shall, prior to undertaking such activity, apply to the Ocean Disposal Management Committee for a permit.

(2) An application for an Ocean Disposal Permit under sub-section (1) of this section shall contain the following information, that is to say,

- (a) a full and accurate description of the waste or other matter to be dumped, which shall include, where appropriate, the technical and common name, the United Nations class number, and a statement of the quantities of such waste or other matter;
- (b) information concerning the location, time and method of dumping;

- (c) a statement concerning any impact on human, marine or environmental health that may result from the dumping;
- (d) a summary of any environmental monitoring or management plans that may be established.

(3) Within two weeks of making any application under subsection (1) of this section, an applicant for an Ocean Disposal Permit shall, at his own expense,

- (a) place a public notice, during two successive weeks, in a newspaper circulating in the area where the proposed disposal is to be undertaken; and
- (b) give public notice in the area where the proposed disposal is to be undertaken by way of a radio and television broadcast.

(4) The applicant shall, in the public notice referred to in subsection (3) of this section,

- (a) provide a description of the proposed disposal activity;
- (b) identify where the proposed disposal activity is to be undertaken;
- (c) specify that an application for the proposed disposal activity has been submitted to the Ocean Disposal Management Committee for consideration;
- (d) advise that the public may make representations concerning the matter; and
- (e) provide a name and contact address where interested parties can obtain further information about the application or make representations concerning the matter.

(5) All applicants for an Ocean Disposal Permit shall submit the following information in support of any application:

- (a) the characteristics and composition of the matter to be dumped, including
 - (i) the total amount and average composition of matter

- to be dumped;
 - (ii) whether the matter to be dumped is in a solid, liquid or gaseous form;
 - (iii) the physical, biological, chemical and biochemical properties of the matter to be dumped;
 - (iv) the toxicity of the matter to be dumped;
 - (v) physical, chemical, and biological persistence;
 - (vi) any accumulation and bio-transformation in biological materials or sediments;
 - (vii) susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials;
 - (viii) probability of production of taints or other changes affecting any marine resource and the marketability of such resource;
 - (ix) whether an adequate scientific basis exists concerning characteristics and composition of the matter to be dumped and in order to assess the impact of the matter on marine life, human health and the environment;
- (b) the characteristics of the dumping site and the method of deposit, including
- (i) location, including the co-ordinates of the dumping area, depth and distance from the coast, and its location in relation to other resources;
 - (ii) rate of disposal per specific time period;
 - (iii) methods of packaging and containment, if any;
 - (iv) initial dilution achieved by proposed method of release;
 - (v) dispersal characteristics, including effects of currents, tides and wind on horizontal transport and vertical mixing;
 - (vi) water characteristics, including temperature, pH, salinity, stratification, nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients, productivity, and oxygen indices of pollution, namely dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD);
 - (vii) topographical, geochemical, and geological characteristics;
 - (viii) existence and effects of other dumps which have been made in the dumping area, including ambient

concentrations of trace metals and trace organic contaminants;

- (ix) whether an adequate scientific basis exists concerning characteristics and composition of the area where the matter is to be dumped and in order to assess the impact of the dumping on marine life, human health and the environment, taking into account seasonal variations;

- (c) general considerations and conditions, including
 - (i) possible effects on amenities, including the presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming, and the attraction of sharks into bathing areas;
 - (ii) possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture;
 - (iii) possible effects on other uses of the sea, including impairment of water quality for industrial or residential use, underwater corrosion of structures, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor, and protection of areas of special importance for scientific, cultural, historical, or conservation purposes;
 - (iv) the practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful.

(6) The review of any application under this section by the Ocean Disposal Management Committee shall include opportunities for public consultation.

(7) The Ocean Disposal Management Committee may require the applicant to submit

- (a) an environmental impact assessment report to support the information provided with the Ocean Disposal Permit application;
- (b) any other information that may be required to evaluate the application.

(8) The Ocean Disposal Management Committee shall, after considering submissions made under subsections (4) and (6), issue a permit if it is of the opinion that the disposal at sea would not pose an undue risk of harm to human health, safety or the environment and would not be contrary to public interest.

(9) A permit issued under sub-section (8) shall contain the following information:

- (a) a full and accurate description of the waste or other matter to be dumped, which shall include, where appropriate, the technical and common name and a statement of the quantities of such waste or other matter;
- (b) information concerning the location, time and method of dumping;
- (c) conditions and requirements concerning the dumping that is to be undertaken, including
 - (i) the use of the appropriate signals by vessels engaged in dumping;
 - (ii) the route to be used by the vessel engaged in dumping;
 - (iii) the establishment of an appropriate inspection and monitoring process, including, where appropriate, the presence of inspectors during dumping operations; and
 - (iv) conditions and requirements concerning any environmental protection or management plans that are to be established.

(10) The Ocean Disposal Management Committee may, at any time, cancel a permit that has been issued under sub-section (8) of this section if it is of the opinion that the disposal at sea would pose an undue risk of harm to human health, safety or the environment, or is no longer in the public interest.

(11) Where an Ocean Disposal Permit is approved under subsection (8) of this section, the Ocean Disposal Management Committee may establish requirements for monitoring, which shall be undertaken at the expense of the applicant.

- (a) the discharge of dredged sediments; and
- (b) the creation of artificial reefs.

(2) The Minister responsible for Fisheries, in consultation with the Ocean Disposal Management Committee, may by notice in the *Gazette*, establish limits on the types and quantities of materials to be used for the creation of artificial reefs.

- (3) Any person who
 - (a) discharges any dredged sediments;
 - (b) creates or attempts to create any artificial reef; other than within the boundaries of a Marine Disposal Site designated under subsection (1) of this sections, commits an offence and is liable, on summary conviction, to a fine of \$300,000, or imprisonment for a term not exceeding two years, or both.

Enforcement of
Ocean Disposal
Permits

24. (1) Any person who
- (a) fails to comply with terms and conditions of Ocean Disposal Permit issued under section 22 (8) of this Act;
 - (b) fails to dispose of materials in designated location or in the designated manner;
 - (c) disposes of materials other than those permitted under the conditions of an Ocean Disposal Permit issued under section 22 (8) of this Act; or
 - (d) fails to comply with a directive or order from the Ocean Disposal Management Committee or any inspector designated under subsection (3) of this section;

commits an offence and shall be liable, on summary conviction, to a fine of \$300,000 or to imprisonment for a term not exceeding two years, or both.

(2) The Minister may designate by notice in the *Gazette*, Ocean Permit Inspectors for the purpose of enforcing the provisions of this Part.

(3) Pursuant to the provisions of subsection (3) of this section, the Minister may designate as an Ocean Permit Inspector any competent and qualified officer serving in the Ministry of Environment, the Ministry of Health,

the Ministry of Fisheries, the Port Authority and Maritime Administration, and the Coast Guard.

(4) In any instance where there is a reasonable belief that the Act or regulations have been or are about to be contravened, the designated Ocean Permit Inspectors may, in carrying out their duties,

- (a) enter at all reasonable times any installation, factory, plant or premises and to require the person in charge to provide them with all relevant information and to assist them in their duties under this Act;
- (b) take samples and seize relevant materials;
- (c) request the attendance of a police officer in the event that the use of force is reasonably anticipated in performing an inspection, obtaining samples or other information, or performing any other function under this Act;
- (d) board and inspect any vessel;
- (e) inspect or make copies of any relevant document.

PART VII - CONTROL OF LEISURE CRAFT

Licensing of
Leisure Ports and
Marinas

25. (1) The Maritime Administration shall establish and administer processes and procedures for the licensing of commercial marinas and facilities for the repair or mooring of leisure craft, which shall include, where appropriate, the undertaking of an for environmental impact assessment of new marina facilities.

- (2) Any person who constructs, operates or manages
 - (a) a marina or mooring facility for 10 or more leisure craft;
 - (b) a storage facility for ten or more vessels;
 - (c) a vessel repair or construction facility;

shall apply to the Maritime Administration for a Marine Facility Operating Permit.

(3) An application for a Marine Facility Operating Permit under subsection (2) of this section shall be in the form set out in Schedule 9 to this Act, and shall be accompanied by the prescribed fee.

(4) An applicant for a Marine Facility Operating Permit shall give public notice, one month in advance of the application to the Maritime Administration, outlining the nature of the application.

(5) The application review process by the Maritime Administration shall include opportunities for public notification and participation.

(6) The Maritime Administration may require an environmental impact assessment report to be submitted by the applicant to support the information provided with the application for a Marine Facility Operating Permit.

(7) The Maritime Administration may, after considering submissions,

(a) refuse the application for a Marine Facility Operating Permit; or

(b) issue a Marine Facility Operating Permit, which may specify requirements concerning the implementation and enforcement of:

(i) the *Code of Good Environmental Practice for Local Harbour Authorities and Marinas* contained in Schedule 10 to this Act; and

(ii) the *Marine Facilities Best Management Practices* outlined in Schedule 11 to this Act.

(8) The Maritime Administration may, for just cause, cancel a permit issued under the provisions of subsection (7) of this Act.

(9) Any person who constructs, operates or manages

(a) a marina or mooring facility for ten or more leisure craft;

(b) a storage facility for ten or more vessels;

(c) a vessel repair or construction facility,

without a Marine Facility Operating Permit issued under sub-section (7) of this section, or in violation of any condition imposed under subsection (7) of this section commits an offence, and shall be liable, on summary conviction, to a fine of \$300,000, or imprisonment for a term not exceeding two years, or both.

26. (1) The owner or manager of any marina, within their marina, shall be responsible for the following, that is to say,

Facilities for
Leisure Craft

- (a) implementing and enforcing
 - (i) the *Code of Good Environmental Practice for Local Harbour Authorities and Marinas* contained in Schedule 10 to this Act; and
 - (ii) the *Marine Facilities Best Management Practices* outlined in Schedule 11 to this Act;
- (b) controlling anchorages within designated marina harbours;
- (c) controlling waste disposal from ships at anchorage and at berth;
- (d) preventing the accumulation of wastes or the creation of any unsanitary conditions; and
- (e) levying fees for the use of any marina waste management services.

(2) The Minister may, by notice in the *Gazette*, designate Local Harbour Authority Areas to be managed by Local Harbour Authority Management Committees.

(3) Within any local harbour designated by the Minister under subsection (2) of this section, the duties, responsibilities and powers of a Local Harbour Authority Committee shall include the following, that is to say,

- (a) the implementation and enforcement of
 - (i) the *Code of Good Environmental Practice for Local Harbour Authorities and Marinas* contained in Schedule 10 to this Act; and
 - (ii) the *Marine Facilities Best Management Practices* outlined in Schedule 11 to this Act;
- (b) controlling anchorages within designated Local Harbour Management Area;
- (c) controlling waste disposal from ships at anchorage within designated Local Harbour Management Area;
- (d) preventing the accumulation of wastes or the creation of any unsanitary conditions; and

(e) levying fees for the use of any waste management services, which fees shall be in accordance with a haulage and tipping fee schedule established in consultation with the Solid Waste Management Authority.

(4) The master and owner of any leisure craft who

(a) anchors in any area other than a designated anchorage;

(b) fails to comply with directives of the management of any marina or Local Harbour Authority;

(c) fails to provide for the sound and sanitary management of wastes in accordance with the requirements of a Marine Facility Operating Permit issued under section 31. (7) of this Act, commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000 or to imprisonment for a term not exceeding one year, or both.

Management of
Leisure Craft

27. (1) This section shall come into force no later than twelve months after the enactment of this Act.

(2) Any foreign leisure craft that is less than 40 feet (13 metres) in length shall, upon entry into any port in St. Christopher and Nevis, obtain a Cruising Yacht Permit from the Department of Customs.

(3) Any leisure craft that is licensed to operate for charter or hire in territorial waters, shall obtain a Charter Craft Permit from the Maritime Authority or the Coastguard as may be appropriate.

(4) The Maritime Authority shall establish processes and procedures relating to the administration and enforcement of the Cruising Yacht Permit System and the Charter Craft Permit System.

(5) The roles, duties and responsibilities in relation to the management of pollution from leisure crafts shall be as follows, that is to say,

(a) subject to the provisions of paragraph (b) of this subsection, the Maritime Administration shall have overall responsibility for administration of the Cruising Yacht Permit System and the Charter Craft Permit Systems;

(b) the Department of Customs shall inspect all newly arrived foreign leisure craft and issue the Cruising Yacht Permit

upon payment of an appropriate fee which shall be established in accordance with the fee schedule concluded in consultation with the Solid Waste Management Authority;

- (c) the Coast Guard shall have responsibility for the inspection and enforcement of the Cruising Yacht Permit System and the Charter Craft Permit System; and
 - (d) the owner and manager of any marina and the Local Harbour Authority management shall ensure that the visiting leisure crafts comply with the requirements of this Act.
- (6) Any person who
- (a) fails to obtain a Cruising Yacht Permit or a Charter Craft Permit; or
 - (b) fails to comply with the requirements of a Cruising Yacht Permit or a Charter Craft Permit;
 - (c) willfully fails to comply with the *Code of Good Environmental Practice for Local Harbour Authorities and Marinas* contained in Schedule 10 to this Act or the *Marine Facilities Best Management Practices* outlined in Schedule 11 to this Act; commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

Fee Structure for
Cruising Permit
and Charter Craft
Permit

28. (1) The Minister may, in consultation with the Solid Waste Management Authority, establish, by Notice in the *Gazette*, the fee schedule to be levied in respect of any Cruising Yacht Permit or Charter Craft Permit.

(2) The fees levied in respect of any Cruising Yacht Permit or Charter Craft Permit shall be collected, as appropriate, by

- (a) the Department of Customs;
- (b) the Maritime Authority; or
- (c) the Coast Guard;

and the fees shall be transmitted to the Solid Waste Management Authority, less any administrative charges which shall not exceed twenty percentum.

(3) The Minister may, in consultation with the Solid Waste Management Authority, establish the procedure for the periodic revision of the fee structure.

PART VIII - PORT STATE CONTROL

Port State Control

29. (1) There is hereby established a Maritime Administration within the Ministry of Communications.

(2) The Maritime Administration shall establish and maintain an effective system of port state control as a means of

- (a) reducing risk of harm to the marine environment and its resources;
- (b) ensuring maritime safety;
- (c) improving the living and working conditions at sea; and
- (d) without discrimination, ensuring that merchant vessels visiting local ports comply with the standards laid out in the relevant international instruments.

(3) The Maritime Authority shall

- (a) conduct port State control inspections and surveys for the purpose of implementing and enforcing the requirements of the relevant international instruments; and
- (b) inspect and survey St. Christopher and Nevis ships to verify compliance with standards and requirements under the relevant international instruments.

(4) In applying the relevant international instruments for the purpose of establishing and maintaining an effective system of port State control, the Maritime Administration shall ensure that no more favourable treatment is given to St. Christopher and Nevis ships.

Port State Control
Inspections

30. (1) The Maritime Administration may carry out inspections of any merchant ship to determine compliance with the requirements or the standards laid out in the relevant international instruments, and to ensure that the merchant ship and its equipment remain in all respects satisfactory for the purpose for the service of which the merchant ship is intended.

(2) In determining which vessels shall be inspected pursuant to the

provisions of sub-section (1) of this section, the Maritime Administration shall pay special attention to

- (a) passenger ships, roll-on and roll-off ships and bulk carriers;
- (b) ships which may present a special hazard, including oil tankers, gas carriers, chemical tankers and ships carrying harmful substances in packaged form;
- (c) ships which have had several recent deficiencies;
- (d) ships which, according to any information available to the Maritime Administration, have not been inspected by the maritime authority of any State within the previous six months.

(3) Notwithstanding the provisions of subsection (2) of this section, in determining which vessels shall be inspected pursuant to the requirements of sub-section (1) of this section, the Maritime Administration shall seek to avoid inspecting ships which have been inspected by any relevant agency of any State within the previous six months.

(4) Where, upon any inspection of a merchant ship pursuant to the provisions of sub-section (1) of this section, it is determined by the Maritime Administration that

- (a) the vessel does not possess valid certificates or documents as required by the relevant international instruments; or
- (b) there exists clear grounds for believing that the condition of the vessel or its equipment or its crew does not substantially meet the requirements of the relevant international instruments;

a more detailed inspection shall be ordered.

(5) In determining, under the provisions of subsection (4)(b) of this section, whether there exists clear grounds for believing that the conditions do not substantially meet the requirements of the relevant international instruments, the Maritime Administration may consider

- (a) a report or notification made by any relevant agency of another State;

- (b) a report or complaint by the master, a crew member, or any person or organization with a legitimate interest in the safe operation of the vessel, shipboard living and working conditions or the prevention of pollution, unless it is determined that such report is manifestly unfounded;
- (c) photographs of an oil slick, waste stream or pollution trail emanating from the merchant ship;
- (d) any other indications of serious deficiencies, which may include
 - (i) evidence of operational shortcomings;
 - (ii) evidence of cargo and other operations not being conducted safely or in compliance with guidelines issued by the International Maritime Organization;
 - (iii) involvement of the ship in any incident due to failure to comply with operational requirements;
 - (iv) evidence, from the witnessing of a fire or abandon ship drill, that the crew are not familiar with essential procedures;
 - (v) absence of a current muster list;
 - (vi) any reliable report or evidence that crew members holding key operational positions aboard the vessel may not be able to communicate with each other or with other persons on board.

Port State Control
Inspectors

31. (1) Inspections conducted pursuant to the provisions of section 30. (1) of this Act shall be carried out

- (a) by properly qualified and trained persons authorized and appointed for this purpose by the Maritime Administration;
- (b) in accordance with the inspection protocol outlined in Schedule 4 to this Act.

(2) The Maritime Administration shall establish a list of qualified surveyors authorized to conduct any inspection undertaken pursuant to the provisions of section 30 (1) of this Act.

(3) Persons authorized by the Maritime Administration to carry out inspections pursuant to the provisions of section 30 (1) of this Act shall have the power to

- (a) inspect any ship and any apparatus used for the storage, transfer or processing of oil, harmful substances, garbage or sewage, as the case may be;
- (b) test any equipment with which the ship is required to be fitted in accordance with the requirements of the relevant international instruments;
- (c) require the production of any records required to be kept in accordance with the requirements of the relevant international instruments, and shall have the power to copy any records and require the person by whom the records are to be kept to certify the copy as a true copy.

(4) A person who knowingly makes false or misleading entry in any record kept in accordance with any requirements of the relevant international instruments commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

Inspection Procedures
30

32. (1) For the purpose of giving effect to the requirements of Section

(1) of this Act, Inspectors appointed by the Maritime Administration shall carry out inspections on all merchant ships and shall verify the certificates and documents relevant for the purposes of this Part.

(2) In undertaking any inspection under the provisions of sub-section(1) of this section the Inspector shall

- (a) comply with the inspection protocol outlined in Part B of Schedule 4 to this Act;
- (b) comply with the Guidelines outlined in Part B of Schedule 4 to this Act;

and upon completion of the inspection shall complete and file with the Maritime Administration a copy of the Report which shall be in the format outlined in Schedule 5 and Part A of Schedule 6 to this Act.

(3) Where a qualified surveyor appointed or authorized for the purpose determines that the condition of the ship or its equipment does not correspond substantially with any of the requirements of the relevant international instruments, or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to safety, health or the marine environment, the surveyor shall immediately notify the Maritime Administration, in the form

outlined in Part B of Schedule 6 to this Act, and ensure that corrective action is taken.

(4) Upon receiving any notice pursuant to the provisions of sub-section (3) of this section, the Maritime Administration shall 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 appropriate repair yard available without presenting an unreasonable threat of harm to safety, health or the marine environment.

(5) In the event that a vessel is detained pursuant to the requirements of sub-section (4) of this section, the Maritime Administration shall immediately, in the form outlined in Schedule 7 to this Act, notify the flag State of the vessel of the nature of the action taken, and the reason for such action.

(6) Where deficiencies found during an inspection cannot be remedied in the port of inspection, the Maritime Administration may allow the ship to proceed to another port, subject to any conditions that may be imposed to ensure that the ship does not cause any unreasonable risk to safety, health or the environment.

(7) Where the provisions of sub-section (6) of this section apply the Maritime Administration shall notify the relevant agency of the ship's next port of call, and every such notification shall contain the following information, that is to say,

- (a) the name, identification number, type, flag, call sign, gross tonnage, and year of build of the vessel;
- (b) particulars concerning any relevant certificates, including issuing authority;
- (c) a statement concerning the nature of deficiencies found, and action taken;
- (d) a statement concerning the suggested action to be taken to remedy the deficiencies, and any action to be taken at the next port of call; and
- (e) the name and contact number of the sender.

(8) The Maritime Administration shall, on the conclusion of any inspection conducted pursuant to the provisions of subsection (1) of this section

- (a) issue the master of the inspected vessel with a document giving the results of the inspection and details of any action taken;
- (b) record the nature and results of the inspection in the register that shall be maintained for this purpose; and
- (c) submit on a regular basis such information pertaining to vessel inspections as may be required by the Port State Control Secretariat.

(9) Any person who obstructs a Port State Control Inspector in the exercise of any powers conferred by section 31 (3) of this Act commits an offence, and shall be liable, on summary conviction, to a fine of \$300,000 or to imprisonment for a term not exceeding two years, or both.

Report of Marine
Accidents

33. (1) Where an accident occurs to a ship in territorial waters, or while in territorial waters a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment, the master or owner shall immediately report the nature of the accident or defect to the Maritime Authority.

(2) Any person who fails to report a marine accident as required in sub-section (1) of this section commits an offence, and shall be liable, on summary conviction, to a fine of \$300,000 or imprisonment for a term not exceeding two years, or both.

Assistance to other
MARPOL Member
States.

34. (1) Where the Maritime Authority receives a report from the Maritime Authority of another MARPOL 73/78 Member State that a vessel in any local port has failed to comply with the requirements of any relevant international instrument, the Maritime Authority shall render to such member state such assistance as may be necessary to ensure that the vessel does not sail while presenting a threat to safety, health or the marine environment.

(2) Upon receiving a report under the provisions of subsection (1) of this section, and where the Maritime Authority believes that the vessel, if permitted to sail, would present a threat to safety, health or the marine environment, the Maritime Authority shall take such steps as may be necessary to 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 appropriate repair yard available without presenting an unreasonable threat of harm to safety, health or the marine environment.

PART IX - MONITORING, ENFORCEMENT AND EVIDENCE

Monitoring and
Enforcement
Powers.

35. (1) The powers and functions of Maritime Administration officers and inspectors, in respect of monitoring and enforcement are

- (a) to inspect waste keeping practices of ships;
- (b) to inspect waste record books of ships;
- (c) to inspect waste keeping practices of leisure craft;
- (d) to inspect waste record books of leisure craft;
- (e) to seize and detain a vessel;
- (f) to order the alteration of waste keeping practices;
- (g) to order the alteration of waste record practices.

(2) The powers and functions of the Coast Guard, in respect of monitoring and enforcement shall include the right

- (a) to board and inspect any vessel in territorial water in order to investigate any violation under this Act;
- (b) to inspect waste keeping practices of ships;
- (c) to inspect waste record books of ships;
- (d) to inspect waste keeping practices of leisure craft;
- (e) to inspect waste record books of leisure craft;
- (f) to inspect leisure craft to verify compliance with a Cruising Permit or Charter Craft Permit;
- (g) to seize and detain a vessel that is suspected of committing any violation under this Act.

(3) The powers and functions of the Port Authority, in respect of monitoring and enforcement shall include the right, within any port area,

- (a) to inspect waste keeping practices of ships;

- (b) to inspect waste record books of ships;
- (c) to inspect waste keeping practices of leisure craft;
- (d) to inspect waste record books of leisure craft;
- (e) to order alteration of waste keeping practices;
- (f) to seize and detain a vessel that has committed any violation of this Act within a port area.

(4) The powers and functions of managers of commercial marinas and Local Harbour Authorities, in respect of monitoring and enforcement shall include the right, within any marina or local harbour,

- (a) to inspect waste keeping practices of leisure craft;
- (b) to inspect waste record books of leisure craft;
- (c) to order alteration of waste keeping practices while any vessel is within the commercial marina or Local Harbour Authority Area;
- (d) to report any violation under this Act to the Coast Guard.

(5) The powers and functions of the Fisheries Department Inspectors, in respect of monitoring and enforcement shall include the right

- (a) to inspect waste keeping practices of vessels engaged in fishing;
- (b) to inspect waste record books of vessels engaged in fishing;
- (c) to order alteration of waste keeping practices on any fishing vessel;
- (d) to seize and detain any fishing vessel suspected of committing a violation of this Act.

Duty to Report
Discharges

36. (1) Where any oil or any harmful substance is discharged or escapes into territorial waters from a vessel, or from a fixed or floating platform, or from any other man-made structure in, on or under the sea or seabed, or from a place on land, the owner or master of the vessel, or the owner or person in charge of operations on the platform or structure, or the occupier of the place on land, as the case may be, shall immediately and by the quickest available means, by radio if possible, report the occurrence to, as appropriate, the Coast Guard, the Maritime Authority, or the Port Authority.

(2) Where any garbage or sewage is discharged or escapes from a vessel, or from a fixed or floating platform, or from any other man-made structure on or under the sea or seabed, or from a place on land in a quantity or concentration likely to be detrimental to the health of any person or harmful to marine life, the owner or master of the vessel, or the owner or person in charge of operations on the platform or structure, or the occupier of the land, as the case may be, shall immediately and by the quickest available means report the occurrence to, as appropriate, the Coast Guard, the Maritime Authority, or the Port Authority.

(3) The reports required to be made under subsections (1) and (2) of this section shall contain the following information, that is to say,

- (a) the time and position of the discharge or escape;
- (b) the event to which the discharge or escape is directly attributable;
- (c) the weather and sea conditions at the time of the discharge or escape and at the time when the report was made;
- (d) where oil has been discharged or has escaped, the description and quantity of each type of oil that was discharged or escaped or that may be discharged or escape;
- (e) where any harmful substance is discharged or escapes, the description and quantity and concentration of each type of harmful substance that was discharged or escaped or that may be discharged or may escape, including their correct technical names, Class and United Nations number;
- (f) where garbage or sewage is discharged or escapes in the circumstances mentioned in subsection (2) of this section the description, quantity and concentration of the garbage or sewage, as the case may be, that was discharged or escaped or which may be discharged or escape;
- (g) where applicable, the state of the remainder of the cargo carried;
- (h) the measures that have been taken to
 - (i) stop or reduce the discharge or escape;
 - (ii) remove any oil or harmful substance or garbage or sewage from the sea or to clean up or disperse any oil or harmful substance or garbage or sewage; and

(iii) minimize damage or the possibility of damage resulting from the discharge or escape;

(h) the existence of any slick and its movement in any direction.

Reports of Ship
Strandings, Wrecks
or Abandonment

37. (1) Where any ship becomes stranded, wrecked or is abandoned in the territorial waters of St. Christopher and Nevis, the owner shall immediately and by the quickest means available report the occurrence to, as appropriate, the Coast Guard, the Maritime Authority, or the Port Authority, giving

- (a) full details of the damage to the ship and the state of the cargo;
- (b) a complete list of all oil and all harmful substances carried, including the description and quantity of each type of oil or harmful substance;
- (c) an estimate of the quantity of any harmful substance on board;
- (d) a statement or estimate of the quantity of each type of oil or harmful substance that has been discharged or has escaped or that may be discharged or escape; and
- (e) an estimate of the quantity of garbage or sewage that has been discharged or has escaped or that may be discharged or may escape.

(2) Any person who

- (a) fails to comply with any provision of this section; or
- (b) makes a report containing any information which to his knowledge is false or misleading;

commits an offence, and is liable, on summary conviction, to a fine of \$100,000 or imprisonment for a term not exceeding one year, or both.

Duty to Report
Threatened Discharges

38. (1) Where there is any significant threat that a discharge or escape into the territorial waters of St. Christopher and Nevis of any oil, harmful substance, garbage, or sewage may occur, the owner or master of the vessel, or the owner or person in charge of operations on the platform or structure, or the occupier of the place on land, as the case may be, shall immediately and by the quickest available means report the threatened occurrence to, as appropriate, the Coast Guard, the Maritime Authority, or the Port Authority.

(2) The report required to be made under subsection (1) of this section shall contain the following information, that is to say,

- (a) an account of the event to which the threat is attributable;
 - (b) the weather and sea conditions at the time the report is made;
 - (c) a description and quantity of each type of oil that may be discharged or may escape;
 - (d) a description and quantity of any other harmful substance that may be affected, including their technical names, class and United Nations number, and the description, quantity and concentration of each type of harmful substance that may be discharged or may escape;
 - (e) an estimate of the quantity of garbage and sewage that may be discharged or may escape;
 - (f) where appropriate, the state of the remainder of the cargo carried;
 - (g) the measures being taken to minimise the threat of damage that may occur.
- (4) Any person who
- (a) fails to comply with any provision of this section; or
 - (b) makes a report containing any information which to his knowledge is false or misleading;

commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

Power to Investigate
Pollution Incidents

39. (1) Where visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a vessel or its wake, the Coast Guard or Maritime Authority shall, to the extent that may be possible, promptly investigate the facts bearing on the issue of whether there has been a violation of the provisions of this Part.

(2) Any investigation conducted pursuant to the provisions of subsection (1) of this section shall include the wind and sea conditions, the track and speed of the vessel, other possible sources of the visible traces in the vicinity, and any relevant oil discharge records.

(3) The Coast Guard or the Maritime Authority may inspect the record books of any vessel suspected of having committed any offence under this Act, for the purpose of instituting a prosecution.

(4) The Coast Guard or the Maritime Authority may inspect the Oil Record Book or Cargo Record Book on board any ship in territorial waters, and may make a copy of any entry in that book and may require the master of the ship to certify that the copy is a true copy of such entry.

(5) Without prejudice to any powers exercisable by virtue of the foregoing provisions, in the case of a vessel in any local port, the Maritime Authority or any surveyor or inspector appointed or authorized by the Maritime Authority for the purpose, shall have the power to

- (a) go on board the vessel to ascertain the circumstances relating to an alleged discharge or escape of oil or of a harmful substance or of garbage or sewage from the vessel into the waters of the port;
- (b) require the production of any certificates, documents or records as required by any relevant international instrument;
- (c) copy any documents or records, and require the person by whom the records are to be kept to certify the copy as a true copy;
- (d) go on board the vessel and take, or require to be taken, soundings of tanks, spaces, and bilges, and any sample or samples of oil or any harmful substance or garbage or sewage from the vessel for chemical analysis;

except that a person exercising any powers conferred by this subsection shall not unnecessarily detain or delay the vessel from proceeding on any voyage.

Evidentiary Matters

40. (1) A copy of the Oil Record Book the Waste Record Book or Cargo Record Book that has been certified by the master of the vessel as a true copy of the entry in the book, shall be admissible in any judicial proceedings as evidence of the facts stated therein.

(2) Where the inspection report of the inspector or person carrying out any inspection pursuant to the requirements of this Part, verifies that

- (a) the condition of the vessel or its equipment or its crew does not substantially meet the requirements of the relevant international instruments; and
- (b) there are clear grounds for believing that the vessel has caused any pollution incident;

the report shall be admissible in evidence as *prima facie* proof of the commission of the offence, and the burden of proving, on a balance of probabilities, that the vessel has not caused the discharge shall be upon the master or owner of the vessel.

(3) Where any vessel fails to discharge any waste into waste reception facilities provided for this purpose under the provisions of section 9, or fails to discharge an appropriate amount of garbage or waste calculated according to

- (a) the ship's records and documents maintained pursuant to the requirements of the relevant international agreements;
- (b) the length of the journey since the last port where waste and other matter was discharged;
- (c) the number of persons on board;
- (d) and any other information, including any report from crew members, passengers, passing vessels or aircraft; it shall be presumed that the waste was discharged in violation of section 8, and the burden of proving, on a balance of probabilities, that the vessel has not caused the discharge shall be upon the master or owner of the vessel.

(4) In any proceedings under this Act

- (a) any records kept in accordance with this Act or required by any relevant international instrument shall be admissible as evidence of the facts stated in those records;
- (b) any copy of an entry in any ship's records, which is certified to be a true copy of the entry by ship's master or the person by whom the records are required to be kept, shall be admissible as evidence of the facts stated in the entry;
- (c) any document purporting to be a record to which paragraph (a) of this subsection applies, or purporting to be such a

certified copy, shall, unless the contrary is proved, be presumed to be such record, or such a certified copy, as the case may be.

41. (1) Any person who
- (a) fails to report the spill or discharge of wastes;
 - (b) fails to maintain any waste records book;
 - (c) fails to offer any waste record book for inspection by the Maritime Administration or its designates when required to do so;
 - (d) interferes with or obstructs any officer, inspector or the Coast Guard in the performance of any duty under this Act;

commits an offence, and shall be liable to a fine of \$100,000 or imprisonment for a term not exceeding one year, or both.

(3) The owner or master of the vessel from which a spill of oil-contaminated or chemical-contaminated wastes or waste-waters occurs shall be civilly liable to persons who suffer damage or loss as a result of the spill.

(4) Where an offence under this section is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continues.

(5) Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, whether or not proceedings are instituted against the corporation for the offence.

Other Remedies

42. (1) Where an offender is convicted of an offence under this Act or Regulations made thereunder, the Court may, at the time of passing the sentence and on the application of the person aggrieved, order the offender to pay to that person an amount by way of satisfaction or compensation for loss of or damage to property or the environment, suffered by that person as a result of the commission of the offence.

(2) Where, on the application of the Minister, it appears to a court of competent jurisdiction that a person has done or is likely to do any act or thing constituting or directed towards the commission of an offence under this Act, the court may issue an injunction ordering any person named in the application

- (a) to refrain from doing any act or thing that it appears to the court may constitute or be directed toward the commission of an offence under this Act; or
- (b) to do any act or thing that it appears to the court may prevent the commission of an offence under this Act.

Payment of Fines
Distress 43. Where a Court orders a person convicted of any offence under by this Act to pay any fine or other moneys and that person is the master of a vessel registered under this Act or the owner of the vessel, and the fine or other moneys are not paid within the time and in the manner specified by the Court, the Court may, in addition to any other power it may have to compel payment, and notwithstanding any other Act, direct the amount remaining unpaid to be levied by distress or by the sale of the vessel or the equipment of the vessel.

Detention of Vessels
by Distress 44. (1) Where there are clear grounds for believing that a vessel has committed an offence under this Part, and there is an immediate risk that the vessel may depart from the territorial waters of St. Christopher and Nevis to avoid liability or prosecution, the Coast Guard or the Maritime Authority may cause the vessel to be detained pending the finalization of any investigation or legal proceeding.

(2) Any vessel detained pursuant to the provisions of sub-section (2) of this section may be released upon the presentation to the Maritime Authority of a satisfactory bond in an amount sufficient to cover any likely fine or award for compensation, damage or clean-up costs.

General Defenses 45. (1) Notwithstanding the provisions of subsections (1) and (3) of section 41 of this Act, no person shall be convicted of any offence under this Act involving the discharge of any harmful substance or waste if the person establishes that

- (a) an approved environmental or waste management plan was in force and being implemented on the vessel or at the facility where the offence occurred;
- (b) the person took all reasonable measures to ensure the implementation of the approved environmental or waste management plan; and
- (c) the person exercised due diligence to prevent the discharge of the harmful substance or waste that is the subject of the charge.

(2) Where any person is charged with an offence under this Act, it shall be a defense to prove, on the balance of probabilities, that the harmful substance in respect of which the offence is alleged to have been committed, was discharged for the purpose of securing the safety of the vessel or platform or other man-made structure, or of saving life and property at sea, except that a defense under this subsection shall not have effect unless the Court is satisfied that the discharge of the harmful substance was necessary for the purpose alleged in the defense, and was a reasonable step to take in all the circumstances.

(3) Where a person is charged with an offence under this Act, it shall be a defense to prove, on the balance of probabilities, that the oil or harmful substance or garbage or sewage, as the case may be, escaped as a consequence of damage to the vessel or platform or other man-made structure or to any equipment used on or in connection with such vessel, platform or structure, and that the damage occurred without the negligence or deliberate act of that person, provided that it shall not be a defense under this subsection unless, as soon as possible in the circumstances after the damage occurred, all reasonable steps were taken to prevent, or if it could not be prevented, to stop or reduce the escape of the oil or harmful substance or garbage or sewage, as the case may be.

(4) It shall be a defense for a person charged with an offence under Part VI of this Act in the case of a discharge or escape from a place on land of which he is the occupier, to prove, on the balance of probabilities, that the discharge or escape was caused by the act or omission of a person who was in that place without the permission, express or implied, of the occupier, except that a defense under this subsection shall not have effect unless the Court is satisfied, on the balance of probabilities, that the person charged had taken all reasonable steps to prevent the person who actually caused the discharge or escape from obtaining access to the place.

(5) Where a person is charged with an offence under Part VI of this Act as the occupier of a place on land, or as the person in charge of any apparatus from which oil or a harmful substance was discharged or escaped, it shall be a defense to prove, on the balance of probabilities, that the discharge or escape was not due to the want of any reasonable care, and that immediately the discharge or escape was discovered all reasonable steps were taken to stop or reduce it.

(6) Where a person is charged with an offence under this Act in respect of the loss of synthetic fishing nets or synthetic material used in the repair of such nets, it shall be a defense to prove, on the balance of probabilities, that the loss was accidental and that all reasonable precautions had been taken to prevent such loss.

(7) Where any oil, noxious substance, garbage, sewage or other harmful substance is discharged as a consequence of the exercise, for the purpose of preventing an obstruction or danger to navigation, of any power by the Coast

Guard, the Maritime Authority or the Port Authority under any other statutory authority, and apart from this subsection, the authority exercising the power, or a person employed by or acting on behalf of the authority, would commit an offence under this Act in respect of that discharge or escape, the authority or person employed by or acting on behalf of the authority shall not be convicted of that offence if it is proved, on the balance of probabilities, that the authority or person took all reasonable steps to prevent, stop, or reduce the discharge or escape.

PART X - MISCELLANEOUS PROVISIONS

Regulations

46. (1) The Minister may generally make Regulations for the purpose of giving effect to the provisions of this Act, and without prejudice to the generality of the foregoing he may make regulations

- (a) amending any Schedule to this Act;
- (b) prescribing fees or dues under this Act;
- (c) respecting the inspection and survey of vessels or classes of vessels;
- (d) respecting the issue of Oil Pollution Prevention Certificates, and Pollution Prevention Certificates for the Carriage of Noxious Liquid Substances in Bulk to any St. Christopher and Nevis ship;
- (e) establishing standards for the operation of marinas and local harbour management areas.

(2) The Minister for Health and Environment may, in consultation with the Ministers responsible for Fisheries, make Regulations to

- (a) establish standards and procedures for storage, handling, transportation and disposal of ship-generated wastes;
- (b) establish and implement environmental standards related to marine environmental quality;
- (c) establish and implement environmental standards relating to environmental performance indicators.

(3) The Minister of Health may, in consultation with the Solid Waste Management Authority, make Regulations respecting licensing of all waste reception facilities and waste haulage contractors for ship-generated waste facilities.

(4) The Minister of Health, in consultation with the Minister of Agriculture, may make Regulations to implement quarantine standards, processes and procedures in respect of any ship-generated wastes.

Act binds the Crown 47. This Act and the regulations made thereunder shall bind the Crown.

Transitional Provisions 48. The provisions of subsection (1) of section 25 shall take effect six months after the coming into effect of this Act.

SCHEDULES**Schedule**
(Section 2)**Categories of Hazardous Wastes****ANNEX 1***Waste Streams*

- Y1 Clinical wastes from medical care in hospitals, medical centres and clinics
- Y2 Wastes from the production and preparation of pharmaceutical products
- Y3 Waste pharmaceuticals, drugs and medicines
- Y4 Wastes from the production, formulation and use of biocides and phyto-pharmaceuticals
- Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals
- Y6 Wastes from the production, formulation and use of organic solvents
- Y7 Wastes from heat treatment and tempering operations containing cyanides
- Y8 Waste mineral oils unfit for their originally intended use
- Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
- Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
- Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
- Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
- Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
- Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
- Y15 Wastes of an explosive nature not subject to other legislation
- Y16 Wastes from production, formulation and use of photographic chemicals and processing materials
- Y17 Wastes resulting from surface treatment of metals and plastics
- Y18 Residues arising from industrial waste disposal operations

Wastes Having as Constituents:

- Y19 Metal carbonyls
- Y20 Beryllium; beryllium compounds
- Y21 Hexavalent chromium compounds
- Y22 Copper compounds
- Y23 Zinc compounds
- Y24 Arsenic; arsenic compounds
- Y25 Selenium; selenium compounds
- Y26 Cadmium; cadmium compounds
- Y27 Antimony; antimony compounds

- Y28 Tellurium; tellurium compounds
- Y29 Mercury; mercury compounds
- Y30 Thallium; thallium compounds
- Y31 Lead; lead compounds
- Y32 Inorganic fluorine compounds excluding calcium fluoride
- Y33 Inorganic cyanides
- Y34 Acidic solutions or acids in solid form
- Y35 Basic solutions or bases in solid form
- Y36 Asbestos (dust and fibres)
- Y37 Organic phosphorous compounds
- Y38 Organic cyanides
- Y39 Phenols; phenol compounds including chlorophenols
- Y40 Ethers
- Y41 Halogenated organic solvents
- Y42 Organic solvents excluding halogenated solvents
- Y43 Any congener of polychlorinated dibenzo-furan
- Y44 Any congener of polychlorinated dibenzo-p-dioxin
- Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44).
- Y46 Wastes collected from households
- Y47 Residues arising from the incineration of household wastes

Other

Radioactive Wastes

ANNEX II

LIST OF HAZARDOUS CHARACTERISTICS

UN

CLASS CODE CHARACTERISTICS

1 H1 Explosive

An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such speed as to cause damage to the surroundings.

3 H3 Flammable liquids

The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5 degrees C. closed cup test, or not more than 65.6 degree C. open-cup test. (Since the results of open-cut tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such

differences would be within the spirit of this definition).

4.1 H4.1 Flammable solids

Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.

4.2 H4.2 Substances or wastes liable to spontaneous combustion

Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.

4.3 H4.3 Substances or wastes which, in contact with water, emit flammable gases

Substances or wastes which by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

5.1 H5.1 Oxidising

Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.

5.2 H5.2 Organic peroxides

Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.

6.1 H6.1 Poisonous (Acute)

Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.

6.2 H6.2 Infectious substances

Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.

7 H7 Radioactive Materials

Substances or material which spontaneously emit a significant radiation and of which the specific activity is greater than 70kBq/kg (2nCi/g).

8 H8 Corrosives

Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.

9 H10 Liberation of toxic gases in contact with air or water

Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.

9 H11 Toxic (Delayed or chronic)

Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.

9 H12 Ecotoxic

Substances or wastes which, if released, present or may present immediate or delayed adverse impacts to the environment by means of bio-accumulation and/or toxic effects upon biotic systems.

9 H13

Capable, by any means, after disposal, of yielding another material e.g. leachate, which possesses any of the characteristics listed above.

Schedule 2
(Section 20)

Part A

List of Prohibited Wastes and other Matter

The dumping of the following wastes and matter is prohibited under the provisions of the Act:

1. Organohalogen compounds *at concentrations greater than 0.1mg/kg*;
2. Mercury and mercury compounds *at concentrations greater than 0.3 mg/kg*;
3. Cadmium and cadmium compounds *at concentrations greater than 0.6 mg/kg*;
4. Persistent plastics and other persistent synthetic material, including netting and ropes, which may remain in suspension in the sea in such a manner as to:
 - (a) interfere materially with fishing, navigation and other legitimate uses of the sea; or
 - (b) present a risk to the health or safety of any living marine resource;
5. Crude oil and its wastes, refined petroleum products, petroleum distillate residues, lubricating oils, hydraulic fluids and any mixtures containing any of these substances *at concentrations greater than 10 mg/kg*;
6. High-level radioactive wastes and other high-level radioactive matter;
7. Materials in whatever form, whether solids, liquids, semi-liquids, gases, or in a living state, that are, have been produced, or are intended for biological or chemical warfare;
8. Organosphorous compounds *at concentrations greater than 0.05 mg/kg*,

unless these substances, other than substances intended for biological or chemical warfare, are trace contaminants in sewage sludges or dredge spoils, or are rapidly rendered harmless by physical, chemical, or biological processes in the sea, provided they do not:

- (a) make edible marine organisms unpalatable; or
- (b) endanger human health or that of marine biota.

Part B**Wastes Requiring an Ocean Disposal Permit for Dumping**

The dumping of the following wastes is prohibited under the provisions of the Act, without prior approval by means of a special permit:

- (1) Wastes or other matter containing amounts of:
 - (a) arsenic and its compounds *at concentrations greater than 100 mg/kg;*
 - (b) lead and its compounds *at concentrations greater than 100 mg/kg;*
 - (c) copper and its compounds *at concentrations greater than 100 mg/kg;*
 - (d) zinc and its compounds *at concentrations greater than 100 mg/kg;*
 - (e) organosilicon compounds *at concentrations greater than 1 mg/kg;*
 - (f) cyanides *at concentrations greater than 1 mg/kg;*
 - (g) fluorides *at concentrations greater than 100 mg/kg;*
 - (h) pesticides and their by-products not covered in Schedule 2 *at concentrations greater than 0.05 mg/kg;*
- (2) Acids and alkalis containing the following substances:
 - (a) beryllium and its compounds *at concentrations greater than 10 mg/kg;*
 - (b) chromium and its compounds *at concentrations greater than 100 mg/kg;*
 - (c) nickel and its compounds *at concentrations greater than 100 mg/kg;*
 - (d) vanadium and its compounds *at concentrations greater than 100 mg/kg;*
- (3) Containers, scrap metal and other bulky wastes that are liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation;
- (4) Substances which, though of a non-toxic nature, may become harmful due to the quantities in which they are dumped, or which are liable to seriously reduce amenities of present a risk to human health or marine biota;
- (5) Radioactive wastes and other radioactive matter not included in Schedule 2;
- (6) Incinerated wastes of any matter.

MARINE POLLUTION MANAGEMENT BILL, 2002

OBJECTS AND REASONS

The Bill, which is divided into ten Parts, seeks to provide for the protection of ecologically sensitive marine resources, and in that connection it specifically seeks

- # To enhance environmental quality of territorial waters and adjacent international waters.
- # To give effect to certain international conventions relating to pollution of the sea.
- # To implement port-state control to improve management of ship-generated wastes and prevent harm to safety, health and the marine environment from shipping activities.
- # To encourage good environmental operating practices in commercial, cruise liner and leisure shipping and in ports, marinas and harbours.
- # To provide for matters connected with or incidental to the foregoing.

PART I - PRELIMINARY MATTERS

Part I of the Bill deals with matters of a preliminary nature, that is to say, short title and interpretation of certain words used in the Bill.

PART II - MANAGEMENT OF HAZARDOUS WASTE

Part II addresses matters pertaining to the management of hazardous waste. In this connection Clause 3 prohibits dumping of hazardous waste into

- # the territorial sea, or any coastal or inland waters of Saint Christopher and Nevis; or

- # any marine area outside the territorial sea of Saint Christopher and Nevis from a Saint Christopher and Nevis ship, aircraft, hovercraft or marine structure.

A penalty of \$5,000,000 (fine) or imprisonment for a term not exceeding ten years or both is imposed for contravention of that prohibition. Clause 4, on the other hand imposes a prohibition on the importation of hazardous waste into Saint Christopher and Nevis; and a penalty of \$1,000,000 (fine) or imprisonment for a term not exceeding five years or both is imposed for contravention of that prohibition.

Clause 5 provides for the modalities of transporting hazardous waste through the exclusive economic zone of Saint Christopher and Nevis. A Permit for the Trans-boundary Transportation of the hazardous waste is required before transporting the waste.

Clause 6 imposes a duty on the owner or master of any vessel that accidentally discharges or spills any hazardous waste to immediately report such discharge or spill to the Maritime Authority. Clause 7 prohibits the the loading or incineration of hazadous wastes within the exclusive economic zone, as well as the export and transportation of hazardous wastes to or through Saint Christopher and Nevis and a penalty of \$1,000,000 (fine) or imprisonment for a term not exceeding five years or both is imposed for contravention of that prohibition.

PART III - CONTROL OF MARINE POLLUTION FROM VESSELS

Part III provides for the control of marine pollution from vessels. In this connection Clause 8. (2) prohibits the dumping or discharge of a prohibited substance from a vessel, platform, structure or apparatus into the territorial waters of Saint Christopher and Nevis. Subsection (3) of Clause 8 prohibits the dumping or discharging of a prohibited substance from a Saint Christopher and Nevis ship into any part of the sea outside Saint Christopher and Nevis. A penalty of \$1,000,000 (fine) or imprisonment for a term not exceeding five years or both is imposed for contravention of any of those two prohibitions.

Clause 8. (5) provides that where a prohibited substance is dumped or discharged into the territorial waters of St. Christopher and Nevis the master or owner of the vessel, or owner or the person in charge of the platform, structure or apparatus, as the case may be, shall be civilly liable for all damage caused, while Clause 8. (6) provides that in the event of an accidental discharge of a prohibited substance into territorial waters, it shall be the responsibility of the master or owner of the vessel, or the owner or the person in charge of the platform, structure or apparatus, as the case may be, to immediately notify the Maritime Authority, established under Part VIII of this Act, of the nature and location of such accidental discharge. The penalty for failure to comply with the requirement of sub-section (6) of Clause 8 is a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

Clause 9 imposes the responsibility of ensuring that adequate facilities are provided for the reception of wastes generated from ships at commercial ports and any designated anchorage for ships on the Port Authority, in association with the Solid Waste Management Corporation. In that connection reception facilities shall be provided, where appropriate, for the following classifications of wastes, that is to say,

- # oil, oil contaminated waste-water and oily wastes;
- # noxious liquid substances, chemical-contaminated waste-waters and chemical wastes in bulk or packaged form, or other hazardous wastes;
- # sanitary sewage sludge;
- # garbage and other solid wastes; and
- # all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags.

Further, subsection (3) of this Clause provides that it shall be the responsibility of the Solid Waste Management Corporation to ensure that adequate facilities are provided at:

- # local harbour authority ports;
- # marinas;
- # mooring areas used by leisure craft; and
- # designated anchorages for leisure craft;

for the reception of wastes generated by leisure craft

Clause 9. (5) provides that it shall be the responsibility of the Solid Waste Management Corporation to receive and to provide for the final disposal of wastes received at:

- # commercial ports;
- # local harbour authority ports;
- # marinas; and
- # designated anchorages.

Clause 9. (6) provides that in providing and maintaining waste reception facilities as required under subsection (5), the Port Authority and the Solid Waste Management Corporation shall ensure that undue delay is not caused to vessels, and for

that purpose shall undertake regular inspections to ensure the adequacy and efficiency of the facilities, while Clause 9. (7) provides that nothing in this Clause shall be construed as requiring the Port Authority or the Solid Waste Management Corporation to allow untreated oil- contaminated ballast water to be discharged into any reception facilities.

Clause 9. (8) provides that the Port Authority, in providing waste reception facilities, may, in consultation with the Solid Waste Management Authority and the Local Harbour Authorities, make reasonable charges for the use of facilities, and may impose reasonable conditions in respect of the use of the facilities.

Clause 10 makes provision for the requirements for the Reception of Ship-Generated Wastes. More importantly, subsection (8) thereof provides that no ballast water shall be discharged into any reception facilities without the permission of the Port Authority, which permission shall not be given unless the ballast water is treated to less than 10 ppm hydrocarbons and only if it can be verified that the ballast water does not contain any foreign organisms. Further, subsection (9) provides that prior to discharging any waste into facilities provided under Clause 9. (4), the owner or master of a ship shall ensure that all ship-generated wastes are securely packaged so as to prevent spillage, and shall identify the type of wastes and the ship from which the wastes originated.

However, subsection (10) provides that except in emergency situations, the Port Authority and the Solid Waste Management Corporation may refuse to receive any wastes that may be subject to quarantine restrictions, any incinerator ash or other hazardous materials, or sludge from ship-generated sanitary sewage treatment facilities.

Clause 11 provides for the establishment of Guidelines for the Management of Vessel-Waste. It provides that the Port Authority, in consultation with the Solid Waste Management Corporation and the Ministry of Health and Environment, may issue guidelines and codes of practice concerning the following, that is to say,

- # the discharge, storage and management of any waste discharged to port waste reception facilities;
- # the establishment of emergency and response procedures in the event of any spill, fire or explosion;
- # the establishment of any training requirements or programs concerning the management, storage or handling of any waste discharged to waste reception facilities;
- # the establishment of any training requirements or programs concerning emergency and response procedures in the event of any spill, fire or explosion.

In making the guidelines or codes of practice referred to above, the Port Authority shall ensure the broadest possible consultation with the representatives of the shipping industry, the leisure craft industry, Local Harbour Authorities and marina management.

PART IV - ON-BOARD MANAGEMENT OF WASTES

Part IV provides for on - Board Management of wastes. In this connection Clause 12 provides for the requirements that must be satisfied by Ships Carrying Oil. The requirements are that an oil tanker or ship referred to in this Clause shall possess

- # a valid International Oil Pollution Prevention Certificate in accordance with the provisions of Regulation 4 of Annex I of MARPOL 73/78;
- # an Oil Record Book Part I (Machinery Space Operations) in accordance with the provisions of Regulation 20 of Annex I of MARPOL 73/78; and
- # a ship-board oil pollution emergency plan that is in conformity with international standards for such plans.

Subsection (3) of this Clause provides for the keeping of an Oil Record Book, which shall be completed on each occasion, on a tank to tank basis, whenever any of the following operations takes place in the ship, that is to say,

- # for machinery space operations,
 - (i) ballasting or cleaning of oil fuel tanks;
 - (ii) discharge of dirty ballast or cleaning water from tanks;
 - (iii) disposal of oily residue;
 - (iv) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces.
- # for cargo or ballast operations,
 - (i) loading of oil cargo;
 - (ii) internal transfer of oil during voyage;
 - (iii) unloading of oil cargo;
 - (iv) ballasting of cargo tanks and dedicated clean ballast tanks;
 - (v) cleaning of cargo tanks including crude oil washing;
 - (vi) discharge of ballast except from segregated ballast tanks;
 - (vii) discharge of water from slop tanks;
 - (viii) closing of all applicable valves or similar devices after a slop tank discharge operations;
 - (ix) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations;
 - (x) disposal of residue.

The Clause further provides that in the event of a discharge of oil or oily mixture, or in the event of an accidental or other exceptional discharge of oil or oily mixture, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge. The Clause, finally, provides that in the event that any requirements in this Clause are not complied with, the master or owner of the vessel commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

Clause 13 provides for requirements to be satisfied by a ship carrying noxious liquid substances in bulk in territorial waters. The requirements to be satisfied are that a chemical tanker or ship referred to in this Clause must possess:

- # a valid International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in accordance with the provisions of Regulation 11 of Annex II of MARPOL 73/78; and
- # a Cargo Record Book kept in accordance with the provisions of Regulation 9 of Annex II of MARPOL 73/78.

Also the Cargo Record Book shall be completed on each occasion, on a tank to tank basis, whenever certain operations with respect to noxious liquid substances take place in the ship [see subsection (2)]. Subsection (3) thereof provides that in the event of a discharge of any noxious liquid substance or mixture containing such substance, whether intentional or accidental, a statement shall be made in the Cargo Record Book of the circumstances of, and the reasons for, the discharge. The Clause provides that where the owner or master of any vessel fails to comply with the requirement of the Clause that person commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000, or imprisonment for a term not exceeding one year, or both.

Clause 14 provides that a cargo and passenger ship of 200 tons gross tonnage and above carrying cargo or carrying more than 10 passengers in territorial waters, shall possess a valid International Sewage Pollution Prevention Certificate in accordance with standards established under Annex IV of MARPOL 73/78. Further, it provides that in the event of a discharge of any sewage or sewage sludge, whether intentional or accidental, a statement shall be made in the ship's records of the circumstances of, and the reasons for, the discharge. The Clause provides in subsection (5) thereof that the owner or master of any vessel who fails to comply with the requirement of this section commits an offence, and shall be liable, on summary conviction, to a fine of \$100,000 or to imprisonment for a term not exceeding one year, or both.

Clause 15 makes provision for the general requirements for the management of Ship-Generated Waste On-Board.

PART V -INTERVENTION AND LIABILITY IN MARINE POLLUTION INCIDENTS

Part V provides for intervention and liability in marine pollution incidents. In that connection Clause 16. (1) provides that subject to the provisions of section 17 (1) of this Act, the Maritime Authority, the Coastguard or any other authorized authority may take such measures on the high sea as may be necessary to prevent, mitigate or eliminate grave and imminent danger to the coastline or related interests from pollution or threat of pollution of the sea by oil, or any hazardous wastes or harmful substance, following upon a maritime casualty or acts related to such casualty, which may reasonably be expected to result in pollution damage.

Subsection (2) thereof provides that measures taken by the Maritime Authority, the Coast Guard or any authorized authority pursuant to the provisions of subsection (1) shall

- # be proportionate to the actual or threatened damage; and
- # not go beyond what is reasonably necessary to prevent, mitigate or eliminate grave and imminent danger to the coastline or related interests from pollution or threat of pollution of the sea by oil or any hazardous wastes or harmful substance.

Clause 17. Provides for the reporting of intervention done on the high seas, while Clause 18 provides for intervention measures. Clause 19 provides for liability for pollution damage to the effect that the owner or master of the vessel at the time of a maritime casualty or marine pollution incident, or where the casualty or incident consists of a series of occurrences at the time of the first such occurrence, shall be liable for any pollution damage caused by the vessel as a result of the incident.

PART VI - CONTROL OF LAND-BASED SOURCES OF MARINE POLLUTION

This Part provides for the control of land-based sources of marine pollution. In that connection Clause 20. prohibits the dumping or discharging from any land-based source of any waste or harmful substance into the territorial sea of St. Christopher and Nevis. Subsection (2) prohibits the dumping or discharging of any waste or any harmful substance specified in Part B of Schedule 2 into the territorial sea from any land-based source without a permit issued by the Ocean Disposal Technical Committee under section 21. Any person who contravenes the provisions of this Clause commits an offence and shall be liable, on summary conviction, to a fine of \$1,000,000, or imprisonment for a term not exceeding five years, or both.

Clause 21 establishes an inter-departmental committee to be known as the Ocean Disposal Management Committee, which shall comprise of the following persons, that is to say,

- # the Director of Environment, who shall be the Chairperson of the Committee;

- # the Director of Health;
- # the Director of Fisheries;
- # the Director General of the Port Authority; and
- # the Commander of the Coastguard.

The Ocean Disposal Management Committee shall carry out the following functions and duties, that is to say,

- # the administration of the permit system;
- # the monitoring and enforcement of permit requirements and conditions;
- # to provide advice to the Minister concerning the designation of any area as a Marine Disposal Site under section 23 of this Act, or measures that should be established for the management of any such area; and
- # such other duties and functions as may be directed by the Minister to give effect to the requirements of this Part.

Clause 22 provides for the method of granting Permits for disposal of waste at sea, while Clause 23 makes provision for the Designation of Marine Disposal Sites. Clause 24 makes provision for the Enforcement of Ocean Disposal Permits

PART VII - CONTROL OF LEISURE CRAFT

Part VII addresses the issue of control of leisure craft. In this connection, Clause 25 provides for the Licensing of Leisure Ports and Marinas. Clause 26 provides for the management of marinas and facilities for Leisure Craft, while Clause 27 provides for the management of Leisure Craft. Clause 28 makes provision for the fee structure for cruising Permit and Charter Craft Permit.

PART VIII - PORT STATE CONTROL

Part VIII provides for Port State Control. In this connection there shall be established a Maritime Administration within the Ministry of Communications, and the Maritime Administration shall establish and maintain an effective system of port state control as a means of

- # reducing risk of harm to the marine environment and its resources;
- # ensuring maritime safety;
- # improving the living and working conditions at sea; and

- # without discrimination, ensuring that merchant vessels visiting local ports comply with the standards laid out in the relevant international instruments.

The Maritime Authority shall

- # conduct port State control inspections and surveys for the purpose of implementing and enforcing the requirements of the relevant international instruments; and
- # inspect and survey St. Christopher and Nevis ships to verify compliance with standards and requirements under the relevant international instruments.

Subsection 4) thereof provides that, in applying the relevant international instruments for the purpose of establishing and maintaining an effective system of port State control, the Maritime Administration shall ensure that no more favourable treatment is given to St. Christopher and Nevis ships. Clause 30 provides for Port State Control Inspections. Clause 31 provides for Port State Control Inspectors, while Clause 32 provides for Inspection Procedures

Clause 33 provides for the making of Report of Marine Accidents. This is to be done where an accident occurs to a ship in territorial waters, or while in territorial waters a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment.

Clause 34 provides for Assistance to other MARPOL Member States.

PART IX - MONITORING, ENFORCEMENT AND EVIDENCE

Part IX provides for monitoring, enforcement and evidence. Clause 35 specifically speaks to Monitoring and Enforcement Powers. Clause 36 provides for duty to report discharges, while Clause 37 makes for making reports of ship strandings, wrecks and abandonment. Clause 38 provides for duty to report threatened discharges.

Clause 39 provides for power to investigate pollution incidents. Clause 40 speaks to evidentiary matters. Clause 41 provides for failure to report spills etc. Clause 42 provides for other remedies. Clause 43 provides for payment of fines by distress, while Clause 44 provides for detention of vessels by distress. Clause 45 provides for general defences.

PART X - MISCELLANEOUS PROVISIONS

Part X provides for matters of a miscellaneous nature. In that connection it provides for the making of regulations, and also makes provision for matters of a transitional nature.

DELANO F. BART
HONOURABLE ATTORNEY-GENERAL, AND
MINISTER OF JUSTICE AND LEGAL AFFAIRS