



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

MARINE POLLUTION PREVENTION
ACT, No. 59 OF 1981

[Certified on 16th September, 1981]

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*Marine Pollution Prevention
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L. D.—O. 76/79

AN ACT TO PROVIDE FOR THE PREVENTION, REDUCTION AND CONTROL OF POLLUTION IN SRI LANKA WATERS; TO GIVE EFFECT TO INTERNATIONAL CONVENTIONS FOR THE PREVENTION OF POLLUTION OF THE SEA AND FOR MATTERS CONNECTED WITH OR INCIDENTAL THERETO.

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

1. This Act may be cited as the Marine Pollution Prevention Act, No. 59 of 1981, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette* (hereinafter referred to as the “appointed date”).

Short title
and date of
operation.

PART I

ESTABLISHMENT OF THE MARINE POLLUTION PREVENTION
AUTHORITY

2. (1) There shall be established an Authority to be called the Marine Pollution Prevention Authority (hereinafter referred to as “the Authority”) and which shall consist of the persons who are for the time being members of the Authority under subsection (3).

Establishment
of the Marine
Pollution
Prevention
Authority.

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

(3) The Authority shall consist of the following members appointed by the Minister :—

- (a) three members who appear to the Minister to have wide experience and shown capacity in shipping, port operations and marine pollution prevention ;
- (b) one member to be nominated by the Minister in charge of the subject of Foreign Affairs ; and
- (c) one member to be nominated by the Minister in charge of the subject of Fisheries.

(4) The Minister shall appoint one of the members appointed under paragraph (a) of subsection (3) to be the Chairman of the Authority.

(5) The Chairman and the members appointed by the Minister under paragraph (a) of subsection (3) shall, subject to the provisions of subsection (7), hold office for a term of three years and shall be eligible for reappointment.

(6) The Minister may, by Order published in the *Gazette*, remove from office the Chairman or any member of the Authority appointed under subsection (3) without assigning any reason therefor :

Provided, however, that no member appointed under paragraph (b) or paragraph (c) of subsection (3) shall be removed from office under this subsection without the concurrence of the Minister who nominated such member.

(7) In the event of the vacation of office by the Chairman or any member of the Authority appointed under subsection (3) or his removal from office under the provisions of the preceding subsection, the Minister may appoint another person to hold such office during the unexpired part of the term of office of the member whom he succeeds :

Provided, however, that if such vacation of office or removal of office is by, or of, a member appointed under paragraph (b) or paragraph (c) of subsection (3), no appointment shall be made under this subsection without the concurrence of the Minister who nominated such member.

(8) If the Chairman or any member of the Authority appointed under subsection (3) is temporarily unable to discharge the duties of his office due to ill health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place as Chairman or as member, as the case may be :

Provided, however, that if the member so unable to discharge the duties of his office is a member appointed under paragraph (b) or paragraph (c) of subsection (3), no appointment shall be made under this subsection without the concurrence of the Minister who nominated such member.

(9) The Chairman or any member may earlier resign his office as Chairman or member, as the case may be, by letter in that behalf addressed to the Minister.

(10) A person shall be disqualified from being appointed or nominated as a member or continuing as a member of the Authority if he is, or becomes, a Member of Parliament.

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

(12) The members of the Authority may be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(13) The quorum for any meeting of the Authority shall be three members and the Authority may regulate the procedure in regard to the meetings of such Authority and the transactions at such meetings.

PART II

PREVENTION OF POLLUTION—CRIMINAL LIABILITY

3. If any oil or other pollutant is discharged or escapes into Sri Lanka waters from any ship, or from any apparatus used for transferring oil or other pollutant to or from a ship (whether to or from a place on land or from another ship) or from an off-shore installation or from a pipe line or from any place on land or as the result of any operation for the exploration of the seabed or subsoil or the exploration of the natural resources thereof, then, subject to the provisions of this Act—

**Discharge or
escape of oil
or other
pollutant into
Sri Lanka
waters.**

- (a) where the discharge or escape is from a ship, the owner, operator, master or the agent of the ship ;
or
- (b) where the discharge or escape occurs during the course of transferring oil or a pollutant to or from a ship, the owner or the master of the ship, or where the discharge or escape is from any apparatus used for transferring oil or a pollutant, the owner or the person in charge of the apparatus ; or
- (c) where the discharge or escape is from an off-shore installation or as the result of any operations for the exploration of the seabed or subsoil or the exploration of the natural resources thereof, the owner or the occupier of that installation or the person carrying on the operation or the person in charge of the operation ; or
- (d) where the discharge or escape is from a pipe line, the owner or operator of the pipe line ; or

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

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

Dumping oil
or other
pollutant
into Sri
Lanka waters.

4. Any person who, except in accordance with the terms and conditions of a permit obtained from the Authority, dumps any oil or other pollutant into Sri Lanka waters shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million rupees.

Special
defences.

5. (1) Where a person charged under section 3 or section 4 is the owner, operator, master or agent a ship or is the owner or occupier of an off-shore installation it shall be a defence to prove that the oil or other pollutant in question was discharged or dumped for the purpose of securing the safety of any ship or any off-shore installation or preventing any damage to such ship, off-shore installation or cargo or for saving human life at sea and reasonable care has been taken in minimising the damage caused by such discharge or dumping.

(2) Where a person charged with an offence under section 3 is the owner, operator, master or agent of a ship, it shall be a defence to prove—

(a) that the oil or other pollutant escaped in consequence of damage to the ship and that all reasonable precautions were taken after the discovery of the escape for the purpose of preventing and minimising the escape ;

(b) that the oil or other pollutant escaped by reason of leakage, which was not due to any want of reasonable care and that as soon as practicable after the escape was discovered all reasonable steps were taken for the purpose of preventing or minimising the escape.

(3) (a) Where a person charged with an offence under section 3 is the owner or person in charge of any apparatus or is the owner or occupier of an off-shore installation, pipe line or place on land, as the case may be, from which the oil or other pollutant is alleged to have escaped, it shall

be a defence to prove that the escape of the oil or other pollutant was not due to any want of reasonable care, and that as soon as practicable after the escape was discovered, all reasonable steps were taken for stopping or reducing it.

(b) It shall be a defence for the owner or occupier of an off-shore installation, pipe line or place on land to prove that the discharge was caused by the act of a person who was in that place without the permission (express or implied) of the owner or occupier.

(4) No liability shall arise under section 3 or section 4—

(a) where any oil or other pollutant is discharged or dumped in consequence of the removal of sunk, stranded or abandoned vessels by the Authority in exercise of any power conferred by any written law or acting under the written instructions of the Minister ;

(b) where substances containing oil or other pollutants are discharged or dumped by the Authority for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.

PART III

PREVENTION OF POLLUTION—CIVIL LIABILITY

6. (1) Where any act referred to in section 3 or section 4, results in polluting Sri Lanka waters or of the fore-shore, the owner or the operator of the ship or the owner or the person in charge of the apparatus or the owner or the occupier of the off-shore installation, or the owner of the pipe line, as the case may be, shall be liable for—

Civil
liability.

(a) any damage caused by the discharge, escape or dumping of any oil or other pollutant to Sri Lanka waters or to the fore-shore or any interests related thereto ;

(b) the costs of any measures taken for the purpose of preventing, reducing or removing any damage caused by the discharge, escape or dumping of any oil or other pollutant into Sri Lanka waters or the fore-shore, or any interests related thereto.

(2) In this section, interests related to Sri Lanka waters or the fore-shore include

(a) marine, coastal, port or estuarine activities including fisheries activities ;

- (b) the promotion of tourism and the preservation and development of tourist attractions in Sri Lanka waters or on the fore-shore including beaches and coral reefs;
- (c) the health of the coastal population and their well-being;
- (d) the protection and conservation of living marine resources and of wild life.

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

Special defences.

7. Where an action is brought against any person under section 6, it shall be a defence to prove that the discharge, escape or dumping, as the case may be, resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character.

Limitation of liability.

8. (1) (a) The liability in respect of any one incident under section 6 shall be limited to an aggregate amount of seven thousand two hundred and ten rupees (or its equivalent in terms of special drawing rights held in the special drawing rights department of the International Monetary Fund) for each metric tonne of the ship's tonnage.

(b) The maximum liability incurred by the owner or operator of a ship or the owner or person in charge of an apparatus or the owner or occupier of an off-shore installation, pipe line, or place on land, as the case may be, under this Part of this Act shall be limited to an aggregate amount of seven hundred and fifty million rupees (or its equivalent in terms of special drawing rights held in the special drawing rights department of the International Monetary Fund).

(2) If any act referred to in section 6 occurs due to the negligence of the owner, or operator of a ship, or the owner or person in charge of an apparatus, or the owner or occupier of an off-shore installation, pipe line or place

on land, as the case may be, such person shall not be entitled to avail himself of the limitations provided in subsection (1) of this section.

(3) In this section "ship's tonnage" means the gross tonnage of the ship.

9. (1) The owner, or the operator of a ship carrying more than two thousand metric tonnes of oil in bulk as cargo which enters or leaves a port in Sri Lanka or enters or leaves Sri Lanka waters or a terminal in Sri Lanka waters shall have in respect of that ship a valid certificate of insurance or other financial security such as the guarantee of a bank or a certificate delivered by an international fund which is acceptable to the Authority and if the ship is registered in a State which is a party to the International Convention on Civil Liability for Oil Pollution Damage 1969, a certificate issued by the appropriate authority of that State.

Compulsory
insurance.

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

(3) Where a ship enters or leaves or attempts to enter or leave a port in Sri Lanka or arrives at or leaves or attempts to arrive at or leave Sri Lanka waters in contravention of subsection (1), the owner, operator or the master of such ship shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

(4) Where a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (2), the owner, operator or the master of the ship shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

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

PART IV

PREVENTIVE MEASURES AGAINST POLLUTION

10. (1) All ships in Sri Lanka waters shall carry record books relating to oil and other pollutants.

Record books
relating to
oil and
pollutants.

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(2) The master of any ship referred to in subsection (1) shall record in the oil record books the carrying out, on board or in connection with the ship, operations relating to—

- (a) the loading of oil cargo ;
- (b) the transfer of oil cargo to and from a ship in Sri Lanka waters ;
- (c) the discharge of oil cargo ;
- (d) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks ;
- (e) the separation of oil from water, or from other substances, in any mixture containing oil ;
- (f) the disposal of any other oil residue ;
- (g) the disposal of any oil or water, or any other substance arising from operations relating to any matters specified in the preceding sub-paragraph ;
- (h) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any ship or of preventing damage to any ship or cargo or for saving human lives ;
- (i) any occasion on which oil or a mixture containing oil is found to be escaping or to have escaped from the ship in consequence of damage to the ship or by reason of leakage ; and
- (j) such other operations as may be prescribed.

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

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

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

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

(6) If any ship fails to carry a record book the owner, operator, agent or the master of such ship shall be guilty of an offence.

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

(8) Record books relating to oil and other pollutants 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. They shall be preserved for a period of two years after the last entry has been made.

(9) The Authority or any officer authorized in writing by the Authority may inspect on board any ship while within Sri Lanka waters the oil record book or the record book relating to pollutants and may require the master of the ship to forward to the Authority a certified true copy of the entries made in the record book relating to oil or other pollutants.

(10) Any person guilty of an offence under subsection (6) or subsection (7) shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

(11) In any proceedings under this Act—

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

11. (1) No owner, operator, master or agent of any ship shall transfer oil to or from a ship within Sri Lanka waters between the hours of 6 p.m. and 6 a.m. unless notice has been given to and prior approval has been obtained from the Authority.

**Restrictions
on transfer
of oil.**

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

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

(3) The period referred to in subsection (2) shall in no case exceed a period of twelve months from the date of approval.

(4) Any person being the owner, operator, master or agent of a ship, as the case may be, who contravenes any of the provisions of this section shall be guilty of an offence and on conviction be liable to a fine of not exceeding one hundred thousand rupees.

Duty to report discharge of oil or other pollutant into Sri Lanka waters.

12. If any oil or other pollutant is discharged, escapes or is dumped in Sri Lanka waters for any reason whatsoever—

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

then the owner, operator, master or agent of the ship, or the owner or person in charge of the apparatus or the owner or occupier of the off-shore installation, pipe line or place on land, as the case may be, shall forthwith report all details of such occurrence to the Authority and, if he fails to do so, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

PART V

RECEPTION FACILITIES AND EQUIPMENT IN SHIPS

Reception facilities to discharge or deposit oil or pollutants.

13. (1) The Authority shall have power to provide reception facilities within or outside any port in Sri Lanka to enable ships using such ports or traversing Sri Lanka waters to discharge or deposit oil residues or other pollutants.

(2) In providing any facilities under subsection (1), the Authority may seek the assistance of any other person or arrange for the provision of such facilities by any other person.

(3) Regulations may be made prescribing—

- (a) the fees to be levied for the use of facilities, and

- (b) the conditions upon which ships may make use of such facilities.

14. (1) Every ship entering Sri Lanka waters shall be fitted with such equipment for the prevention of the discharge of oil or any other pollutant and shall comply with such requirements relating or incidental to such prevention as may be prescribed.

Equipment in ships to prevent pollution.

(2) If in the case of any ship, the provisions of any regulation made under this section which apply to that ship are contravened, the owner, operator, master or the agent of that ship shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

PART VI MARITIME CASUALTIES

15. (1) Where, as a result of any maritime casualty or in consequence of any act resulting therefrom, there is pollution or an imminent threat of pollution to Sri Lanka waters or to its fore-shore or any interests relating to such waters or fore-shore, the Authority may, in consultation with the Minister, give directions—

Maritime casualties.

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

to take such measures in respect of the ship or its cargo as may be necessary to prevent, mitigate or eliminate such pollution or the threat of such pollution.

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

- (a) that the ship is to be moved to a specified place, or is to be removed from a specified area or locality ;
- (b) that the ship is not to be moved to a specified place or area or locality or over a specified route ;
- (c) that any oil or other cargo is to be or is not to be loaded, unloaded or discharged ;

(d) that specified salvage measures are to be or are not to be taken.

(3) If in the opinion of the Minister the powers conferred under subsection (2) are or have proved to be inadequate for the purpose of preventing or reducing pollution or the risk of pollution, the Minister may—

- (a) undertake operations for the sinking or destruction of the ship, or any part of it;
- (b) undertake operations which involve the taking over of control of the ship.

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

Measures taken under section 15 to be proportionate to actual or threatened damage.

16. (1) Every person who carries out any act in pursuance of any direction given by the Authority under section 15 shall ensure that—

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

(2) Every person who—

- (a) contravenes or fails to comply with any direction given under section 15;
- (b) wilfully obstructs any person who is authorized to act in pursuance of any directions issued under section 15,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

(3) Where a person is charged under this section it shall be a defence to prove that he used due diligence to ensure compliance with any direction issued under section 15 or that he had reasonable cause for believing that compliance with such direction would involve serious risk to human life.

PART VII

IMPLEMENTATION OF INTERNATIONAL CONVENTIONS

Powers of the Minister to implement International Conventions.

17. (1) The Minister shall have the power to take such steps as may be necessary to give effect to the provisions of any International Convention on marine pollution which the Government of Sri Lanka may ratify, accept, accede to or approve.

(2) Without prejudice to the generality of subsection (1) such Conventions may include—

- (a) the International Convention on the Prevention of Pollution of the Sea by Oil, 1954 and the subsequent amendments ;
- (b) the International Convention on Civil Liability for Oil Pollution Damage, 1969 ;
- (c) the International Convention on the Establishment of an International Fund for compensation for Oil Pollution Damage, 1971 ;
- (d) the International Convention relating to Intervention on the High Seas in case of Oil Pollution Casualties, 1969 ;
- (e) the International Convention for the Prevention of Pollution from Ships, 1973 and the Protocol of 1978.

(3) The Minister shall obtain prior approval of the Cabinet before exercising any powers under this section.

18. (1) In the event that the Sri Lanka Government accedes to the International Convention on Civil Liability for Oil Pollution Damage, 1969, the following additional defences will be available to a person against whom an action has been brought under Part II of this Act—

**Additional
defences.**

- (a) no liability shall attach if such damage was wholly caused by a third party by any act or omission done with intent to cause damage ;
- (b) no liability shall attach if the damage 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.

(2) In the event that the Sri Lanka Government accedes to the International Fund for Compensation for Oil Pollution Damage, 1971, any proceedings for the enforcement of the Convention shall be brought before the High Court and such Court shall, notwithstanding the provisions of any other written law, have jurisdiction to impose the maximum liability provided by such Convention.

PART VIII

MISCELLANEOUS PROVISIONS

Powers of
inspection
survey &c.

19. (1) Any person generally or specially authorized in that behalf by the Authority may—

(a) require the master, operator or agent of any ship that is within Sri Lanka waters or is about to enter such waters to provide information—

(i) concerning the condition of the ship, its machinery and equipment,

(ii) concerning the nature and quality of its cargo,

(iii) concerning the cargo and fuel and the manner in which and the locations in which the cargo and fuel of the ship are stored; and

(iv) on such other matters relating to the ship or its cargo as may be required by the Authority;

(b) board any ship that is within Sri Lanka waters and conduct such inspections and tests as will enable him to determine whether the ship complies with the requirements laid down by this Act or regulations made thereunder;

(c) inspect any records required to be kept in respect of any ship by this Act or regulations made thereunder and cause any entry in any such record to be copied and may require the person by whom the records are to be kept to certify the copy as a true copy of the entry;

(d) visit any off-shore installation, apparatus, pipe line or place on land and conduct such inspection as would enable him to determine whether such off-shore installation, apparatus, pipe line or place on land complies with the requirements laid down by this Act or regulations made thereunder;

(e) order any ship to proceed out of Sri Lanka waters by such route and in such manner as he may direct, and to remain outside such waters or to proceed to and moor, anchor or remain for a reasonable time specified by him in a place selected by him within Sri Lanka waters—

(i) if he suspects on reasonable grounds, that the ship fails to comply with any regulation made under this Act that is or may be applicable to it, or

(ii) if, by reason of weather, visibility, or sea conditions, the condition of the ship or any of its equipment or any deficiency in its complement or the nature and condition of its cargo, he is satisfied that such an order is justified and would prevent the discharge, escape or dumping of any oil or other pollutant.

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

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

(4) Where the Authority is informed that a substantial quantity of oil or other pollutant has been discharged, or has escaped or has been dumped into Sri Lanka waters or where such Authority is satisfied that a grave and imminent danger of a substantial discharge, escape or dumping of oil or other pollutant into Sri Lanka waters exists, the Authority may—

- (a) order all ships within a specified area in Sri Lanka to report their positions to the Authority ;
- (b) order any ship or instruct the owner, operator or person in charge of any apparatus, pipe line, off-shore installation or place on land to take such steps as may be necessary to control or contain the oil or other pollutant or to take part in the cleaning up of such pollution.

20. (1) It shall be lawful for the Authority or any person generally or specially authorized by the Authority in writing in that behalf, at any reasonable time, to enter upon any land or premises adjoining the sea or fore-shore for the purpose of removing or eliminating any oil or other pollutant from Sri Lanka waters and then do such acts as may be reasonably necessary for the purpose of carrying out or giving effect to any work of the Authority, or for the making of any survey, examination or investigation, preliminary or incidental to the exercise of any power, the discharge of any function or the performance of any duty of the Authority.

Power to
enter any
land or
premises

(2) If through any act, neglect or default by the Authority in the exercise of its powers under subsection (1), any damage has been caused to the property of any person, it shall be the duty of the Authority to pay compensation in respect of such damage.

(3) No person who has incurred any damage in respect of his property shall be entitled to any remedy, redress or relief in any Court other than by way of compensation.

(4) The amount of such damage shall, in the case of a dispute, be determined by the High Court or the District Court of Colombo as the case may be.

Duty to
co-operate

21. (1) The master of any ship or a person in charge of any apparatus, pipe line, off-shore installation or place on land shall give the Authority or any person authorized in writing in that behalf by the Authority all reasonable assistance in his power to enable such Authority or person so authorized to carry out its or his duties and functions under this Act or any regulations made thereunder and shall furnish such Authority or any person so authorized such information as he may reasonably require.

(2) No person shall obstruct or hinder the Authority or any person so authorized from carrying out its or his duties or functions under this Act or any regulations made thereunder.

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

Power to
detain ship

22. Notwithstanding any proceedings which may be instituted under this Act, the Authority or any person authorized in writing by the Authority may detain any ship if it or he has reasonable cause to believe that any oil or other pollutant has been discharged from the ship into Sri Lanka waters and the ship may be so detained until the owner, operator, master or the agent of the ship deposits with the Authority a sum of money or furnishes such security which would in the opinion of the Authority be adequate to meet the liability of the owner, operator, master or agent under this Act.

23. (1) If any ship is detained under section 22 and the ship proceeds to sea before it is released by the proper authority, the master, owner, operator, agent or any other person who is a party or privy to the act of sending the ship to sea, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

Detained ship
proceeding to
sea.

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

24. (1) Whenever—

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

Notice to
Consular
Officer
on detention
of foreign
ship.

notice shall forthwith be served on the Consular Officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being.

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

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

Notices &c.
to be
in writing.

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

Service of
documents.

- (a) in any case, by delivering a copy thereof personally to the person to be served, or by leaving such copy at his known place of abode or by transmitting or sending such copy by post ;
- (b) if the document is to be served on the master of a ship (where there is a master), or on a person belonging to a ship, by leaving such document for him on board that ship with the person being or appearing to be in command or charge of the ship ; and
- (c) if the document is to be served on the master of a ship, and there is no master and the ship is in Sri Lanka waters, on the managing owner of the ship or, if there is no managing owner in Sri Lanka waters, on some agent of the owner residing in

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Sri Lanka or, where no such agent is known or can be found, by affixing a copy thereof in some conspicuous place in the ship.

(2) Any person who obstructs the service on the master of a ship of any document under this Act relating to the detention of the ship as unseaworthy shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five thousand rupees.

(3) Any owner or master of a ship who is a party or privy to any obstruction referred to in subsection (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five thousand rupees, or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

Sale of ship.

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

Non-applica-
tion to naval
ships.

28. The provisions of this Act shall not apply to ships belonging to the naval, military or air forces of Sri Lanka or any other country.

Jurisdiction
of the
Courts.

29. (1) Every offence under this Act committed in Sri Lanka waters shall be triable by the High Court sitting in any judicial zone of Sri Lanka or by the High Court exercising admiralty jurisdiction notwithstanding anything to the contrary in the Judicature Act, No. 2 of 1978.

(2) Every action instituted in respect of an act or omission referred to in Part II of this Act shall notwithstanding anything to the contrary in any other law be triable by the High Court sitting in any judicial zone of Sri Lanka or by the High Court exercising admiralty jurisdiction or by the District Court of Colombo and every Court shall have jurisdiction to impose the maximum liability provided by this Act.

(3) Where in any proceeding instituted under this Act any matter or question including the exercise of any power arises in respect of which no provision or adequate provision has been made by or under this Act or any other

enactment the court shall have power to make such orders and give such directions in so far as the same shall not conflict or be inconsistent with any provision made by or under this Act or any other enactment.

30. (1) Any person specially authorized in writing by the Authority or a police officer may arrest without warrant any person who has committed an offence under this Act or any regulations made thereunder and may produce him before the High Court or the District Court of Colombo, as the case may be, to be dealt with according to law.

Powers of arrest.

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

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

Who may prosecute.

32. All fines levied under this Act shall be credited to the Consolidated Fund.

Fines to be credited to consolidated fund.

33. The Authority may appoint with the approval of the Minister any person by name or by office for the purpose of carrying out all or any of the powers conferred on the Authority under this Act.

Delegation of powers by the Authority.

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

Regulations.

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

- (a) specifying the conditions governing the issue of permits by the Authority;
- (b) specifying the equipment to be fitted in ships for the prevention of pollution;
- (c) specifying any substance or class of substances other than oil which when added to water has the effect of contaminating such water so as to make the

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water unclean, noxious, impure or detrimental to health, the safety or welfare of any person or harmful to marine life.

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

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

Suits or legal proceedings not to lie against Authority or employees in certain circumstances.

35. (1) No suit or prosecution shall lie against the Authority for any damage caused, or likely to be caused, by any act which in good faith is done, or purported to be done, under this Act.

(2) No suit or prosecution shall lie against any person in the employment of the Authority for any act which in good faith is done, or purported to be done, under this Act.

Powers of the Minister in relation to the Authority.

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

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

(3) The Minister may order all or any of the activities of the Authority to be investigated and reported upon by such person or persons as he may specify and upon such order being made, the Authority shall afford all such facilities to carry out such order.

37. In this Act unless the context otherwise requires—

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

"dumping" means any deliberate disposal of any matter into the sea and includes putting, throwing, casting or depositing ;

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

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

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

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

"off-shore installation" includes—

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

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(e) any structure connecting an off-shore installation with any other off-shore installation ;

“oil” means oil of any description in any form and includes spirits and other distillates produced from oil of any description and coal, tar, bitumen, bitumen emulsions, fuel oil, sludge oil refuse and oil mixed with waste ; and includes mixtures of oil with waste or with any other substance ;

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

“owner” means the person registered as the owner or in the absence of registration, the person owning or in possession ;

“pollutant” means any substance or any substance that is a part of a class of substances, prescribed by the Minister to be a pollutant for the purposes of this Act and includes any water contaminated by such substance ;

“prescribed” means prescribed by regulation ;

“ship” means a vessel of any type whatsoever operating in the marine environment and includes fishing trawlers, hydrofoil boats, aircushion vehicles, submersibles, barges, floating-craft and fixed or floating platforms without regard to the method of or the lack of propulsion ;

Sri Lanka waters” means the following waters :—

- (a) the territorial sea,
- (b) the contiguous zone,
- (c) the exclusive economic zone,
- (d) the continental shelf,
- (e) the pollution prevention zone,

as defined in the Maritime Zones Law, No. 22 of 1976 ; and

“transfer” in relation to oil or any pollutant means transfer in bulk.