

# OIL IN NAVIGABLE WATERS ACT

## ARRANGEMENT OF SECTIONS

### SECTION

1. Discharge of certain oils into prohibited sea areas.
2. Designation of prohibited sea areas.
3. Discharge of oil into the waters of Nigeria.
4. Special defences under sections 1 and 3.
5. Equipment in ships to prevent oil pollution.
6. Penalties for offences under sections I, 3 and 5.
7. Keeping record of matters relating to oil.
8. Facilities in harbours for disposal of oil residues,
9. Restriction on transfer of oil at night.
10. Duty to report discharges of oil into waters of harbours.
11. Powers of inspection.
12. Prosecutions.
13. Enforcement and application of fines.
14. General provisions as to application of Act.
15. Power to grant exemptions.
16. Application of Act to Government owned ships.
17. Enforcement of Convention relating to oil pollution.
18. Annual report.
19. Financial provisions.
20. Interpretation.
21. Short title.

### SCHEDULE

#### *Prohibited sea areas*

[NOTE.- The measurements used in this Act are English measurements; and they are to be converted into the metric measurements as and when required.]

### An Act to implement the terms of the International Convention for the Prevention of Pollution of the Sea by Oil 1954 to 1962 and to make provisions for such prevention in the navigable waters of Nigeria.

[1968 No. 34.]

[22nd April, 1968]

[ Commencement.]

#### **1. Discharge of certain oils into prohibited sea areas**

(1) If any oil to which this section applies is discharged from a Nigerian ship into a part of the sea which, in relation to that ship, is a prohibited sea area, or if any mixture containing not less than 100 parts of oil to which this section applies is discharged from such a ship into such a part of the sea, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence under this section.

(2) This section applies-

- (a) to crude oil, fuel and lubricating oil; and
- (b) to heavy diesel oil,

and shall also apply to any other description of oil which may be prescribed under this subsection by order made by the Minister, having regard to the provisions of any subsequent Convention in so far as it relates to the prevention of pollution of the sea by oil, or having regard to the persistent character of oil of that description and the likelihood that it would cause pollution if discharged from a ship into a prohibited sea area.

(3) The Minister may, by regulations made under this subsection, make exceptions from the operation of subsection (1) of this section, either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular descriptions of oil or mixtures in prescribed circumstances, or in relation to particular areas of the sea.

(4) In this Act, "subsequent Convention" means any Convention subsequent to the

Convention of 1954 to 1962 being a Convention relating to the aforesaid Convention, and accepted by the Federal Government of Nigeria.

## 2. Designation of prohibited sea areas

(1) For the purposes of this Act the areas of the sea designated by or in accordance with this section shall be prohibited sea areas.

(2) Subject to the following provisions of this section, the areas specified in the Schedule to this Act shall be prohibited sea areas.

[Schedule.]

(3) The Minister, if he considers it necessary to do so for the purpose of protecting the coast and territorial waters of Nigeria from pollution by oil, may by order designate any area of the sea outside the territorial waters of Nigeria and outside the areas specified in the Schedule to this Act as a prohibited sea area.

(4) For the purpose of giving effect to any variation of the prohibited zones referred to in the Convention of 1954 to 1962, in accordance with the provisions of that Convention or of any subsequent Convention, the Minister may by order vary any of the areas specified in the Schedule to this Act or declare that any area specified in that Schedule shall cease to be included therein.

[Schedule.]

(5) For the purpose of giving effect to any subsequent Convention, the Minister may by order designate as a prohibited sea area, any area of the sea, outside the territorial waters of Nigeria, which, apart from the order, is not a prohibited sea area.

(6) The power of the Minister under subsection (4) or (5) of this section shall be exercisable either generally or in relation to different classes of vessels or different circumstances or both.

## 3. Discharge of oil into the waters of Nigeria

(1) If any oil or mixture containing oil is discharged into waters to which this section applies from any vessel, or from any place on land, or from any apparatus used for transferring oil from or to any vessel (whether to or from a place on land or to or from another vessel), then subject to the provisions of this Act-

- (a) if the discharge is from a vessel, the owner or master of the vessel; or
- (b) if the discharge is from a place on land, the occupier of that place; or
- (c) if the discharge is from apparatus used for transferring oil from or to a vessel, the person in charge of the apparatus,

is guilty of an offence under this section.

(2) This section applies to the following waters, that is-

- (a) the whole of the sea within the seaward limits of the territorial waters of Nigeria; and
- (b) all other waters (including inland waters) which are within those limits and are navigable by sea-going ships.

(3) The harbour authority may appoint a place within its jurisdiction where the ballast water of vessels in which a cargo of dangerous petroleum has been carried may be discharged into the waters of the harbour, at such times, and subject to such conditions, as the authority may determine, and, where a place is so appointed, the discharge of ballast water from such a vessel shall not constitute an offence under this section, if the ballast water is discharged at that place and at a time and in accordance with the conditions so determined and the ballast water contains no oil other than dangerous petroleum.

(4) In subsection (3) of this section, "**dangerous petroleum**" has the same meaning as in the Petroleum Act.

[Cap. P10.]

## 4. Special defences under sections 1 and 3

(1) Where a person is charged with an offence under section 1 of this Act, or is charged with an offence under section 3 of this Act as the owner or master of a vessel, it shall be a defence to prove that the oil or mixture in question was discharged for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo or of saving life:

Provided that a defence under this subsection shall not have effect if the court is satisfied that the discharge of the oil or mixture was not necessary for the purpose alleged

in the defence or was not a reasonable step to take in the circumstances.

(2) Where a person is charged as mentioned in subsection (1) of this section, it shall also be a defence to prove-

- (a) that the oil or mixture escaped in consequence of damage to the vessel, and that as soon as practicable after the damage occurred all reasonable steps were

taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of oil or mixture; or

- (b) that the oil or mixture escaped by reason of leakage, that the leakage 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.

(3) Where a person is charged with an offence under section 3 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 mixture containing oil is alleged to have escaped, it shall be a defence to prove that the escape of the oil or mixture 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.

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

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

- (a) that the oil was contained in an effluent produced by operations for the refining of oil;
- (b) that it was not reasonably practicable to dispose of the effluent otherwise than by discharging it into waters to which the last preceding section applies; and
- (c) that all reasonably practicable steps had been taken for eliminating oil from the effluent:

Provided that a defence under this subsection shall not have effect if it is proved that, at a time to which the charge relates, the surface of the waters into which the mixture was discharged from the place in question, or land adjacent to those waters, was fouled by oil, unless the court is satisfied that the fouling was not caused, or contributed to, by oil contained in any effluent discharged at or before that time from that place.

(6) Where any oil, or mixture containing oil, is discharged in consequence of-

- (a) the exercise of any power conferred by sections 273 and 275 of the Merchant Shipping Act (which relate to the removal of wrecks by the Receiver of Wreck);

[Cap. M III.]

- (b) the exercise, for the purpose of preventing an obstruction or danger to navigation, of any power to dispose of sunk, stranded or abandoned vessels which is exercisable by the harbour authority,

and apart from this subsection, the person exercising the power under the said sections 273 and 275 or, as the case may be, the harbour authority exercising the power, (or a person employed by or acting on behalf of that person or authority) is guilty of an offence under section 1 of this Act or under section 3 of this Act, in respect of that discharge, the authority or person shall not be convicted of that offence unless it is shown that it or he

failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.

## 5. Equipment in ships to prevent oil pollution

(1) For the purpose of preventing or reducing discharges of oil and mixtures containing oil into the sea, the Minister may make regulations requiring Nigerian ships to be fitted with such equipment, and to comply with such other requirements, as may be prescribed.

(2) Without prejudice to the generality of subsection (1) of this section, where any regulations made thereunder require ships to be fitted with equipment of a prescribed description, the regulations may provide that equipment of that description-

- (a) shall not be installed in a ship to which the regulations apply unless it is of a type tested and approved by a person appointed by the Minister;
- (b) while installed in such a ship, shall not be treated as satisfying the require-

ments of the regulations unless, as such times as may be specified in the regulations, it is submitted for testing and approval by a person so appointed.

(3) The Minister may appoint persons to carry out tests for the purposes of any regulations made under this section, and, in respect of the carrying out of such tests, may charge such fees as may be prescribed by the regulations.

(4) Every surveyor of ships shall be taken to be a person appointed by the Minister to carry out tests for the purposes of any regulations made under this section, in so far as they relate to tests required in accordance with paragraph (b) of subsection (2) of this section.

(5) If, in the case of any ship, the provisions of any regulations under this section which apply to that ship are contravened, the owner or master of the ship is guilty of an offence under this section.

## **6. Penalties for offences under sections 1, 3 and 5**

A person guilty of an offence under section I, 3 or 5 of this Act shall, on conviction by a High Court or a superior court or on summary conviction by any court of inferior jurisdiction, be liable to a fine:

Provided that an offence shall not by virtue of this section be punishable on summary conviction by a court having jurisdiction inferior to that of a High Court by a fine exceeding ₦2,000.

## **7. Keeping record of matters relating to oil**

(1) The Minister may make regulations requiring masters of Nigerian ships (other than tankers) being ships of eighty tons gross tonnage or more which use fuel oil to keep records-

- (a) of any occasion on which oil or a mixture containing oil is discharged from any such ship for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;

- (b) of any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from any such ship in consequence of damage to the ship or by reason of leakage;
- (c) of the carrying out, on board or in connection with any such ship, of such operations as may be prescribed, being operations relating to-
  - (i) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks; or
  - (ii) the separation of oil from water, or from other substances, in any mixture containing oil; or
  - (iii) the disposal of any, or water, or any other substance arising from operations relating to any of the matters specified in the preceding subparagraphs; or
  - (iv) the disposal of any other oil residues.

(2) The Minister may make regulations requiring the keeping of records relating to the transfer of oil to and from vessels while they are within the seaward limits of the territorial waters of Nigeria and any requirements imposed by virtue of regulations under this section, shall in the case of vessels subject to the requirements made under subsection (1) of this section, be additional thereto.

(3) Any records required by virtue of regulations made under subsection (2) of this section in the case of any vessel, shall be kept by the master of the vessel:

Provided that in the case of a barge, the records, in so far as they relate to the transfer of oil to the barge, shall be kept by the person supplying the oil, and, in so far as they relate to the transfer of oil from the barge, shall be kept by the person to whom the oil is delivered.

(4) Where by any regulations made under this section any records are required to be kept, the regulations, may-

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

and any regulations made under subsection (2) of this section may provide for any of the matters specified in paragraphs (b) to (d) of this subsection in relation to records to be kept.

(5) If any person-

- (a) fails to comply with any requirements imposed by or under this section, he shall be liable on summary conviction to a fine not exceeding NI ,000;

CAP. 06

#### *Oil in Navigable Waters Act*

- (b) makes an entry in any records kept under this section which is to his knowledge false or misleading in any material particular, he shall be liable on summary conviction to a fine not exceeding NI,000 or imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(6) In any proceedings under this Act-

- (a) any records kept in pursuance of regulations made under this section shall be admissible as evidence of the facts stated in those records;
- (b) any copy of an entry in such records, which is certified by the person by whom the records are required to be kept to be a true copy of the entry, shall be admissible as evidence of the facts stated in the entry;
- (c) any document purporting to be records kept in pursuance of regulations made under 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 pre-

sumed to be such records or such a certified copy, as the case may be.

## **8. Facilities in harbours for disposal of oil residues**

(1) In respect of every harbour in Nigeria, the powers of the harbour authority shall include power to provide facilities for enabling vessels using the harbour to discharge or deposit oil residues (in this Act referred to as "oil reception facilities").

(2) Any power of the harbour authority to provide oil reception facilities shall include power to join with any other person in providing them, and references in this section to the provision of oil reception facilities by the harbour authority shall be construed accordingly; and any such power shall also include power to arrange for the provision of such facilities by any other person.

(3) The harbour authority providing oil reception facilities, or a person providing such facilities by arrangement with the harbour authority, may make reasonable charges for the use of the facilities, and may impose reasonable conditions in respect of the use thereof.

(4) Subject to the following provisions of this section, any oil reception facilities provided by, or by arrangement with, the harbour authority shall be open to all vessels using the harbour on payment of any charges, and subject to compliance with any conditions imposed in accordance with the last preceding subsection.

(5) Where in the case of any harbour in Nigeria it appears to the Minister after consultation with the harbour authority and with any organisation appearing to him to be representative of owners of Nigerian ships registered in Nigeria-

- (a) if the harbour has oil reception facilities, that those facilities are inadequate; or
- (b) if the harbour has no such facilities, that the harbour has need of such facilities,

the Minister may direct the harbour authority to provide, or arrange for the provision of, such oil reception facilities as may be specified in the directions.

(6) Notwithstanding the provisions of subsection (4) of this section, the harbour authority providing oil reception facilities, or a person providing such facilities by arrangement with the harbour authority, shall not be obliged to make those facilities available for use by tankers, or for the reception of oil residues discharged for the purpose of

enabling a vessel to undergo repairs; and the requirements of tankers, and the reception of oil residues discharged for the said purpose, shall be disregarded by the Minister in exercising his powers under subsection (5) of this section.

(7) Nothing in this section shall be construed as requiring the harbour authority to allow untreated ballast water (that is to say, ballast water which contains oil and has not been subjected to an effective process for separating the oil from the water) to be discharged into any oil reception facilities provided by, or by arrangement with, the authority; and the Minister shall exercise his powers under subsection (5) of this section accordingly.

(8) If the harbour authority fails to comply with any directions given under subsection (5) of this section within the period specified in the directions, or within any extended period allowed by the Minister (whether before or after the end of the period so specified), it shall be guilty of an offence, and liable on summary conviction to a fine not exceeding twenty naira for each day during which the default continues, from the day after the end of the period specified in the directions, or any extended period allowed by the Minister, as the case may be, until the last day before that on which the facilities are provided in accordance with the directions.

(9) As respects any harbour in Nigeria, subsections (1), (2), (5) and (8) of this section shall have effect in relation to arrangements for disposing of oil residues discharged or deposited by vessels using the harbour's oil reception facilities, and to the making of such arrangements, as those subsections have effect in relation to oil reception facilities and the provision of such facilities.

## **9. Restriction on transfer of oil at night**

(1) No oil shall be transferred between sunset and sunrise to or from a vessel in any harbour in Nigeria unless the requisite notice has been given in accordance with this section:

Provided that this subsection shall not apply to the transfer of oil for the purpose of a fire brigade.

(2) For the purpose of this section a general notice may be given to the harbour master of a harbour that transfers of oil between sunset and sunrise will be frequently carried out at a place in the harbour within a period specified in the notice; and if such a notice is given it shall be the requisite notice for the purposes of this section as regards transfer of oil at that place with the period specified in the notice:

Provided that the period specified in such a notice shall not extend beyond the end of the period of twelve months beginning with the date on which the notice is given.

(3) Subject to subsection (2) of this section, the requisite notice for the purposes of this section shall be a notice given to the harbour master not less than three hours or more than 96 hours before the transfer of oil begins.

(4) In the case of a harbour which has no harbour master, references in the two last preceding subsections to the harbour master shall be construed as references to the harbour authority.

(5) If any oil is transferred to or from a vessel in contravention of this section, the master of the vessel, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be liable on summary conviction to a fine of not exceeding ₦200.

## **10. Duty to report discharges of oil into waters of harbours**

(1) If any oil or mixture containing oil-

- (a) is discharged from a vessel into the waters of a harbour in Nigeria for the purposes of securing the safety of the vessel, or of preventing damage to the vessel or her cargo or of saving life; or
- (b) is found to be escaping, or to have escaped, into any such waters from a vessel in consequence of damage to the vessel, or by reason of leakage; or
- (c) is found to be escaping or have escaped into any such waters from a place on land,

the owner or master of the vessel or the occupier of the place on land, as the case may be, shall forthwith report the occurrence to the harbour master, stating, in the case of a report by the owner or master of a vessel, whether it falls within paragraph (a) or paragraph (b) of this subsection, and, if he fails to do so, shall be guilty of an offence under this section:

Provided that if the harbour has no harbour master the report shall be made to the harbour authority.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding ₦ 400.

## **11. Powers of inspection**

(1) The Minister may appoint any person as an inspector to report to him-

- (a) whether the prohibitions, restrictions and obligations imposed by virtue of this Act (including prohibitions so imposed by the creation of offences under this Act) have been complied with;
- (b) what measures (other than measures made obligatory by regulations under section 5 of this Act) have been taken to prevent the escape of oil and mixtures containing oil;
- (c) whether the oil reception facilities provided in harbours are adequate,

and any such inspector may be so appointed to report either in a particular case or in a class of cases specified in his appointment.

(2) Every surveyor of ships shall be taken to be a person appointed generally under subsection (1) of this section to report to the Minister in every kind of case falling within that subsection.

(3) Section 400 of the Merchant Shipping Act (which relates to the powers of inspectors) shall apply to persons appointed under subsection (1) of this section (including surveyors of ships in their capacity as such persons) as it applies to the inspectors referred to in that section as if-

[Cap. MII.]

- (a) in paragraph (a) of subsection (1) of that section, the reference to a ship were a

reference to a vessel, and the reference to that Act were a reference to this Act and included a reference to any regulations made under this Act; and

- (b) any power under that section to inspect premises included power to inspect any apparatus used for transferring oil.

Any power of an inspector, under the said section 400 as applied by subsection (3) of this section to inspect a vessel, shall include power to test any equipment with which the vessel is required to be tilted in pursuance of regulations under section 2 of this Act.

(4) Any power of an inspector, under the said section 400 as so applied, to require the production of any records required to be kept in accordance with regulations under section 7 of this Act, shall include power to copy any entry in those records and require the person by whom the records are to be kept to certify the copy as a true copy of the entry; and in subsection (3) of the said section 400, as so applied, the reference to making a declaration shall be construed as a reference to the certification of such a copy.

(5) Without prejudice to any powers exercisable by virtue of the preceding provisions of this section, in the case of a vessel which is for the time being in a harbour in Nigeria the harbour master, and any other person appointed by the Minister under this subsection (either generally or in relation to a particular vessel), shall have power-

- (a) to go on board and inspect the vessel or any of the machinery, boats, equipment or articles on board the vessel, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the vessel into the waters of the harbour;
- (b) to require the production of any records which by virtue of any regulations made under this Act are required to be kept in respect of the vessel;
- (c) to copy any entry in any such records, and require the person by whom the records are to be kept to certify the copy as a true copy of the entry:

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

(6) If any person fails to comply with any requirement duly made in pursuance of paragraph (b) or (c) of subsection (6) of this section, he is liable on summary conviction to a fine not exceeding twenty naira; and if any person wilfully obstructs a person acting in the exercise of any power conferred by virtue of this section he is liable on summary conviction to a fine not exceeding ₦ 200.

## 12. Prosecutions

(1) Subject to subsection (2) of this section, no proceedings shall be brought in Nigeria in respect of any offence under this Act except by or with the consent of the Attorney-General of the Federation.

(2) In respect of any offence under section 9 or 10 of this Act, no proceedings shall be brought in Nigeria except by the harbour authority.

(3) Where immediately before the date which (apart from this subsection) would be the date of expiry of the time for bringing proceedings in a court of summary jurisdiction in respect of an offence alleged to have been committed under this Act, the person to be

charged is outside Nigeria, the time for bringing the proceedings shall be extended until the end of the period for two months beginning with the date on which he next enters Nigeria.

(4) Proceedings for any offence under this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a person at any place at which he is for the time being.

(5) A chief magistrate shall have and may exercise jurisdiction for the trial of any offence in respect of which a summary trial is prescribed under any provision of this Act, and notwithstanding anything in any other enactment shall impose the penalties prescribed under that provision.

(6) The jurisdiction conferred under subsection (5) of this section shall be in addition to and not in derogation of any jurisdiction or power conferred under any other enactment, and nothing in that subsection shall be construed as derogating from the provisions of section 3 (1) of the Territorial Waters Act (which imposes restrictions on trials of persons other than Nigerian citizens for offences committed on the open sea within the territorial waters of Nigeria).

### **13. Enforcement and application of fines**

(1) Where a fine imposed by a court in proceedings against the owner or master of a vessel for an offence under this Act is not paid at the time ordered by the court, the court shall, in addition to any other powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or otherwise taken in execution by way of poinding and sale of the vessel, her tackle, furniture and apparel:

Provided that nothing in this subsection shall be construed as authorising a court other than a High Court or other courts of equivalent superior jurisdiction thereto to direct the poinding and sale of any vessel.

(2) Where a person is convicted of an offence under section 1 or 3 of the Act, and the court imposes a fine in respect of the offence, then, if it appears to the court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is attributable to the offence, the court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

### **14. General provisions as to application of Act**

(1) The provisions of this Act, except provisions which are expressed to apply only to Nigerian ships, shall (subject to any exemptions expressly conferred by or under this Act) apply to all vessels, whether registered or not, and of whatever nationality.

(2) The Minister may by order direct that, subject to such exceptions and modifications as may be specified in the order, any regulations made under section 5 of this Act, or under subsection (1) of section 7 of this Act, shall apply to ships registered in countries and territories other than Nigeria at any time when they are in a harbour in Nigeria, or are within the seaward limits of the territorial waters of Nigeria while on their way to or from a harbour in Nigeria.

(3) An order under subsection (2) of this section shall not be made so as to impose different requirements in respect of ships of different countries or territories:

Provided that if the Minister is satisfied, as respects any country or territory, that ships registered there are required, by the law of that country or territory, to comply with the provisions which are substantially the same as, or equally effective with, the requirements imposed by virtue of the order, the Minister may by order direct that those requirements shall not apply to any ship registered in that country or territory if the ship complies with the said provisions applicable thereto under the law of that country or territory.

(4) No regulation shall by virtue of an order under this section apply to any ship as being within a harbour, or, as the case may be, on her way to or from the harbour, but for stress of weather or any other circumstance which neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

### **15. Power to grant exemptions**

The Minister may exempt any vessels or classes of vessels from any of the provisions of this Act or of any regulations made thereunder, either absolutely or subject to such conditions as he thinks fit.

### **16. Application of Act to Government owned ships**

(1) Nothing in this Act shall be construed to apply to vessels of the Nigerian Navy, nor to Government ships in the service of the Nigerian Navy while employed for purposes of the Nigerian Navy.

(2) Subject to subsection (1) of this section-

(a) provisions of this Act which are expressed to apply only to Nigerian ships apply-

- (i) to Government ships registered in Nigeria;
- (ii) to Government ships, not so registered, which are held for the purposes of the Government of the Federation or of a State;
- (iii) as they apply to other ships which are registered in Nigeria as Nigerian ships;

(b) provisions of this Act which are expressed to apply to vessels generally, apply to Government ships as they apply to other vessels.

(3) In this section, "**Government ships**" means ships which belong to the Govern-

ment of the Federation or of a State other than those within subsection (1) of this section.

## 17. Enforcement of Convention relating to oil pollution

(1) The Minister may by order published in the Federal *Gazette* empower such persons as may be designated by or under the order to go on board any ship to which the Convention of 1954 to 1962 applies, while the ship is within a harbour in Nigeria and to require production of any records required to be kept in accordance with that Convention.

(2) An order under this section may, for the purposes of this Act and with necessary modifications, apply any of the provisions of this Act relating to production and inspection of records, and the taking of copies of entries therein, and to the admissibility in evidence of such records and copies including any provisions of the Merchant Shipping Act applied by those provisions and including any penal provisions of this Act in so far as they relate to those matters.

[Cap. MII.]

(3) For the purposes of this section the Minister, if satisfied that the government of any country has accepted, or denounced, the Convention of 1954, or that the Convention of 1954 to 1962 extends, or has ceased to extend, to any territory, may by order make a declaration to that effect; and in this section "**ship to which the Convention of 1954 to 1962 applies**" means a ship registered in-

- (a) a country the government of which has been so declared to have accepted that Convention and has not been so declared to have denounced it; or
- (b) a territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend.

(4) Subsection (3) of this section shall apply to any subsequent Convention, in so far as it relates to the prevention of pollution of the sea by oil, as those provisions apply to the Convention of 1954 to 1962.

## 18. Annual report

The Minister shall, as soon as possible after the end of each calendar year, prepare and submit to the President a report on the exercise and performance of his functions under this Act, which shall include such observations as he may think fit to make on the operation during that year of this Act, of the Convention of 1954 to 1962 and of any subsequent Convention.

## 19. Financial provisions

(1) The administrative expense incurred by the Minister for the purposes of this Act shall be a charge upon the Consolidated Revenue Fund of the Federation.

(2) Any fees received by the Minister under this Act shall be paid into the Consolidated Revenue Fund of the Federation.

## 20. Interpretation

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively-

"**barge**" includes a lighter or any similar vessel;

"**the Convention of 1954 to 1962**" means the International Convention for the Prevention of Pollution of the Sea by Oil 1954, as amended in the year 1962;

"**harbour authority**" means the Nigerian Ports Authority established under the provisions of the Nigerian Ports Authority Act;

[Cap. N126.]

"**harbour master**" means the harbour master duly appointed by the harbour authority under section 31 of the Nigerian Ports Authority Act and shall include any person authorised by that authority to assist him;

"**harbour in Nigeria**" means a port, estuary, haven, dock, or other place which fulfils the following conditions, that it to say-

- (a) that it contains waters to which this section applies; and

(b) that the harbour authority is empowered to make charges in respect of vessels entering that place or using facilities therein;

**"heavy diesel oil"** means marine diesel oil, other than distillates of which more than half the volume distils at a temperature not exceeding 340° Centigrade where tested by the A.S.T.M. (American Society for Testing Materials) standard method D:86/59;

**"mile"** means a nautical mile, that is to say, a distance of 6,080 feet;

**"Minister"** means the Minister of Transport;

**Nigerian ship**" means a ship whose port of registry is Nigeria;

**"oil"** means oil of any description, and includes spirit produced from oil of any description, and also includes coal tar, and any power conferred by any provision of this Act to prescribe descriptions of oil for purposes of that provision shall be construed accordingly;

**"oil reception facilities"** has the meaning assigned to it by section 3 of this Act;

**"oil residues"** means any waste material consisting of, or arising from, oil or a mixture containing oil;

**"outside the territorial waters of Nigeria"** means outside the seaward limits of those waters;

**"place on land"** includes anything resting on the bed or shore of the sea or of any other waters to which section 3 of this Act applies and also includes anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of the sea or of any such waters;

**"occupier"**, in relation to any such thing as mentioned in the preceding provisions of that section, if it has no occupier, means the owner thereof, and, in relation to a railway wagon or road vehicle, means the person in charge of the wagon or vehicle and not the occupier of the land on which the wagon or vehicle stands;

**"sea"** includes any estuary or arm of the sea;

**"ship"** includes any sea-going vessel of any type whatsoever, and also includes floating crafts (whether self-propelled or towed by another vessel) making a sea voyage;

**"subsequent Convention"** has the meaning assigned to it by section 1 of this Act;

**"surveyor of ships"** means a surveyor of ships appointed or recognised as such under section 133 of the Merchant Shipping Act;

[Cap. MII.]

**"tanker"** means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable nature;

**"territorial waters of Nigeria"** has the meaning assigned to it by section 1 (I) of the Territorial Waters Act; and

[Cap. T5.]

**"transfer"**, in relation to oil, means transfer in bulk.

(2) Any reference in any provisions in this Act to "summary conviction" shall be construed-

- (a) as respects a magistrate's court, as a reference to conviction by the magistrate's court; and
- (b) as respects a High Court, as a reference to conviction by the High Court where the accused has not been committed for trial after a preliminary inquiry by a magistrate.

(3) Any reference in any provision of this Act to a mixture containing oil shall be construed as a reference to any mixture (being a mixture of oil, or, as the case may be, of oil of a description referred to in that provision, with water or with any other substance) having an oil content of 100 parts or more in 1,000,000 parts of the mixture.

## 21. Short title

This Act may be cited as the Oil in Navigable Waters Act.

**SCHEDULE**  
— [Section 2 (2).] —

*Prohibited sea areas*

1. All sea areas within fifty miles from land and outside the territorial waters of Nigeria.

2. The whole of the following sea areas, in so far as they extend fifty miles from the nearest land, that is-

(a) Pacific Ocean

The Canadian Western Zone      The Canadian Western Zone shall extend for a distance of 100 miles from the nearest land, along the west coast of Canada;

(b) North Atlantic Ocean, North Sea and Baltic Sea

(i) The North-West Atlantic Zone      The North-West Atlantic Zone shall comprise the sea areas within a line drawn from latitude 38° 47' north, longitude 73° 43' west to latitude 39° 58' north, longitude 68° 34' west thence to latitude 42° 05' north, longitude 64° 37' west thence along the east coast of Canada at a distance of 100 miles from the nearest land;

- (ii) The Icelandic Zone shall extend for a distance of 100 miles from the nearest land along the coast of Iceland;
- (iii) The Norwegian, North Sea and Baltic Sea Zone shall extend for a distance of 100 miles from the nearest land along the coast of Norway and shall include the whole of the North Sea and of the Baltic Sea and its Gulfs;
- (iv) The North-East Atlantic Zone shall include the sea areas within a line drawn between the following positions-

<i>Latitude</i>	<i>Longitude</i>
62° north	2° east
64° north	00°
64° north	64° north
60° north	14° west
54°30' north	30° west
53° north	40° west
44° 20' north	40° west
44° 20' north	30° west
46° north	20° west thence towards Finisterre at the intersection of the 50 mile limit.

- (v) The Spanish Zone shall comprise the areas of the Atlantic Ocean within a distance of 100 miles from the nearest land along the coast of Spain and shall come into operation on the date on which the present Convention shall have come into force in respect of Spain;
- (vi) The Portuguese Zone shall comprise the area of the Atlantic Ocean within a distance of 100 miles from the nearest land along the coast of Portugal and shall have come into force in respect of Portugal;

*(c) Mediterranean and Adriatic Seas*

- The Mediterranean and Adriatic Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coast of each of the territories bordering the Mediterranean and Adriatic Seas and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory;

*(d) Black Sea and Sea of Azov*

- The Black Sea and Sea of Azov Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Black Sea and the Sea of Azov and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory:

Provided that the whole of the Black Sea and the Sea of Azov shall become a prohibited zone on the date on which the present Convention shall have come into force in respect of Romania and the Union of Soviet Socialist Republics;

The Black Sea and Sea of Azov Zone

(e) Red Sea

The Red Sea Zone

The Red Sea Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Red Sea and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory;

The Kuwait Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coast of Kuwait;

- (f) Persian Gulf The Saudi Arabian Zone shall comprise the sea area within a distance of 100 miles from the nearest land along the coast of Saudi Arabia and shall come into operation on the date on which the present Convention shall have come into force in respect of Saudi Arabia;
- (i) The Kuwait Zone  
(ii) Saudi Arabian Zone (g) Arabian Sea, Bay of Bengal and Indian Ocean

(i) The Arabian Sea Zone

The Arabian Sea Zone shall comprise the sea areas within a line drawn between the following positions-

	<i>Latitude</i>	<i>Longitude</i>
	23°33' north	68°20' east
	23°33' north	67°30' east
	22° north	68° east
	20° north	70° east
	18°55' north	72° east
	15°40' north	72°42' east
	8°30' north	75°48' east
	7°10' north	76°50' east
	7°10' north	78°14' east
	9°06' north	79°32' east

and shall come into operation on the date on which the present Convention shall have come into force in respect of India.

(ii) The Bay of Bengal Coastal Zone

The Bay of Bengal Coastal Zone shall comprise the sea areas between the nearest land and a line drawn between the following positions-

	<i>Latitude</i>	<i>Longitude</i>
	10° 15' north	80°50'
	14°30' north	81°38'
	20°20' north	88°10'
	20°20' north	89° east

and shall come into operation on the date on which the present Convention shall have come into force in respect of India;

(iii) The Malagasy Zone shall comprise the sea area within a distance of 100 miles from the nearest land along the coast of Madagascar west of the Meridians of Cape d' Ambre in the north and of Cape ste. Marie in the south and within a distance of 150 miles from the nearest land along the coast of Madagascar east of these meridians and shall come into operation when the present Convention shall have come into force in respect of Madagascar;

(h) Australia

The Australian Zone shall comprise the sea area within a distance of 150 miles from the nearest land along the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the West coast of 20° south latitude.

## SUBSIDIARY LEGISLATION

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### *List of Subsidiary Legislation*

#### I. Oil in Navigable Waters Regulations.

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## OIL IN NAVIGABLE WATERS REGULATIONS

### ARRANGEMENT OF REGULATIONS

#### REGULATION

- 1 . Short title and interpretation.
2. Equipment in ships to prevent pollution by oil.
3. Oil discharge records.
4. Oil transfer records.
5. Precautions to be taken when loading, discharging or bunkering oil.

### SCHEDULE

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## OIL IN NAVIGABLE WATERS REGULATIONS

[L.N. 101 of 1968.]

under sections 5 and 7

[22nd April, 1968]

[Commencement.]

### 1. Short title and interpretation

(1) These Regulations may be cited as the Oil in Navigable Waters Regulations.

(2) In these Regulations, unless the context otherwise requires, expressions used have the same meaning as in the Oil in Navigable Waters Act.

### 2. Equipment in ships to prevent pollution by oil

(1) Every Nigerian ship (other than a tanker) of eighty tons gross tonnage or over which uses her bunker fuel tanks for the carriage of ballast water shall be fitted with an oily-water separator in accordance with the provisions of this regulation.

(2) The oily-water separator shall be of the following description-

- (a) it shall be of such design, construction and capacity as would be adequate for the purpose of separating oil from a mixture of oil and ballast water from the bunker fuel tanks of the ship;
- (b) it shall be of a type which will separate mixtures of residual fuel oil of specific gravity of not less than 95 (at 60OP) and water so that the oil content of the water after treatment in the separator does not exceed fifty parts per million;
- (c) it shall contain means for the taking of samples of the mixture entering the separator and of the separated water leaving the separator;
- (d) it shall be adequate in strength for the pressure at which it will be required to work and shall contain suitable provision for the prevention of over-pressure;
- (e) it shall be fitted with-
  - (i) a pressure gauge;
  - (ii) a cock or valve for draining when desired;
  - (iii) a non-return valve at the mixture inlet to prevent flow-back; and
- (f) it shall be so designed that it can be inspected and cleaned internally.

(3) Every separator fitted in accordance with the provisions of this regulation shall be connected to a pump capable of delivering the mixture to it at such a rate that the capacity for which the separator is designed, measured in tons per hour, is not exceeded.

### 3. Oil discharge records

(1) The master of every Nigerian ship (not being a tanker) of eighty tons gross tonnage or over which uses fuel oil shall maintain such record as relates to the following, that is-

- (a) any occasion on which oil or a mixture containing oil is discharged from his ship for the purpose of securing the safety of any vessel or of preventing damage to any vessel or cargo;
- (b) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from any such ship in consequence of damage to the ship or by reason of leakage;
- (c) operations for carrying out on board or in connection with any such ship relating to-
  - (i) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks; or
  - (ii) the separation of oil from water or from other substances in any mixture containing oil; or
  - (iii) the disposal of any oil or water, or any other substance arising from operations relating to any of the matters specified in the preceding sub-paragraphs, or any other substance arising from operations relating to any of the matters specified in the preceding sub-paragraphs; or
  - (iv) the disposal of any other oil residues.

(2) The records required to be maintained of the matters specified in sub-paragraphs (a) and (b) of paragraph (1) of this regulation shall be in the form set out in Part 1 of the Schedule to these Regulations and those to be maintained of the matters specified in sub-paragraph (c) of the said paragraph (1) shall be in the form set out in Part III of the said Schedule.

[Schedule.]

(3) The master of every Nigerian ship which is a tanker shall maintain a record in the form set out in Part I of the Schedule to these Regulations of the matters specified in paragraphs (a) and (b) of paragraph (1) of this regulation and in the form set out in Part II of that Schedule of the matters specified in paragraph (c) of the said paragraph (1).

(4) The records required to be maintained in accordance with paragraphs (1), (2) and (3) of this regulation shall be retained in the ship for the duration of the voyage and thereafter either in the ship or at the principal office of the owners of the ship for a period of at least twelve months.

#### **4. Oil transfer records**

(1) There shall be kept by the master of every vessel, whether registered or not, and of whatever nationality, a record of the particulars hereinafter specified relating to the transfer of oil to and from the vessel while it is within the seaward limits of the territorial waters of Nigeria.

(2) In the case of the transfer of oil to a barge, the record shall be kept by the person supplying the oil and in the case of the transfer of oil from the barge, the record shall be kept by the person to whom the oil is delivered.

(3) The record required to be kept by paragraphs (1) and (2) of this regulation shall show clearly the following particulars-

- (a) the name and port of registry (if any) of the vessel or barge;

- (b) the date of transfer;
- (c) the place of transfer;
- (d) the amount and description of oil transferred;
- (e) the vessel, barge or place on land from or to which the oil was, as the case may be, transferred.

(4) The record of each operation shall be separately signed and dated by the master or such other person as is referred to in paragraph (2) of this regulation.

(5) In the case of a ship the record required by this regulation may be kept in the ship's official log in which case the name or port of registry (if any) need not be stated.

## **5. Precautions to be taken when loading, discharging or bunkering oil**

(1) In loading, discharging or bunkering oil, all vessels shall take the following precautions-

- (a) where no facilities exist for the proper draining of hoses, the ends should be suitably blanked;
- (b) when hose connections are being made or broken, drip trays shall be used to catch any spillage;
- (c) all scupper holes to which oil in the event of spillage would have access, shall be tightly plugged for the duration of the operations;
- (d) care shall be taken to ensure that the vessel is securely moored so as to avoid any undue strain on the pipe connections between the vessel and the shore or between vessel and vessel;
- (e) hoses and all other equipment to be used shall be inspected and where any damage is detected, such damage shall be repaired before commencing operations;
- (f) any oil accidentally spilt on deck or on the quay, pier or jetty shall be immediately bailed up and disposed of into the cargo tank or bunkers or ashore;
- (g) the means of communication between vessel and shore or between vessel and vessel shall be checked and all signals to be used thoroughly understood;
- (h) when the loading of a tanker or tank barge is completed, all tank hatch lids shall be immediately secured and all other openings communicating to the tanks, other than those controlled by a relief valve, rendered impassable to oil.

(2) The following precautions shall be observed in relation to bunkering operations-

- (a) the master of any ship being bunkered from any other vessel or from a shore installation shall appoint a responsible officer to personally supervise the bunkering operation;
- (b) before bunkering commences-
  - (i) all air vent pipes shall be inspected to ensure that displaced air and gases can escape freely;

- (ii) the master shall ensure that ullages or soundings are taken to determine the quantity of oil on board in order to ensure that the bunker space will accommodate the amount of the expected delivery;
- (c) where one of the fuel storage tanks is set aside as an overflow tank it shall be the last to be filled;
- (d) during bunkering operations frequent soundings shall be taken and the rate of the delivery shall be slowed down during "topping off"; and where possible, "topping off" of double bottom tanks shall be done from deep banks.

(3) Where fuel oil is being transferred from one space to another within a ship the following precautions shall be observed-

- (a) care shall be taken to ensure that overboard discharge connections from the fuel oil transfer pumps are properly closed and secured against accidental overboard discharge;
- (b) care shall be taken to ensure that-
  - (i) the air vent pipes of the settling tanks are free from blockages;
  - (ii) the overflow pipes leading from the settling tanks to fuel storage tanks are in order and that sounding arrangements or oil level indicating gear on the settling tanks do not allow the escape of oil in the event of accidental overfilling of the settling tanks.

(4) Where tanks used alternately for fuel oil and water ballast are being filled with such ballast the following precautions shall be observed-

- (a) if a pump is used, the pump must be started before the sea valves are opened;
- (b) during ballasting, all tanks shall be inspected to ensure that only the tanks which are intended as ballast are receiving water;
- (c) on completion of ballasting, the sea valves must be closed before the pump is stopped (if used) so as to prevent the escape into the sea of any oil or any oil contaminated water which may be in the lines.

(5) In the engine rooms or other machinery spaces of tankers the following precautions shall be observed-

- (a) a close watch shall be kept on the special oily bilge, gutter-ways or other arrangements provided to confine oil leakage from tank sides and mountings, fuel oil pumps and the like; and any accumulation of fuel oil shall be transferred to a bunker or settling tank well before risk or overflow to the ordinary bilges arises;
- (b) trays beneath oil pumps, heaters and burners shall be kept clean so that any leakage will be immediately apparent and can be dealt with before it pollutes the ordinary engine room or boiler room bilges;
- (c) all fuel oil pipes within the engine or boiler room, and especially those in which the oil is under pressure, shall be inspected regularly to ensure early detection of any leak which would result in contamination of the ordinary bilges with oil fuel.

(6) The master of any ship and the person in charge of any tank barge shall ensure that a careful inspection of the ship's or barge's hull is carried out at regular intervals for the purpose of detecting any leakage of oil.

(7) In addition to the foregoing provisions of this regulation, the master of a tanker shall observe the following precautions-

(a) before loading commences-

- (i) all sea valves and deck overboard discharge valves on the oil and ballast lines shall be tightly closed;
- (ii) all deck valves which are not to be used shall be properly closed and where practicable blanked off; and
- (iii) all valves which are to be used shall be inspected to see that they are free and in good order;

(b) loading must begin at a slow rate and after loading has started the tanks which are being loaded shall be inspected and the water round the ship's side shall also be inspected; and if loading is proceeding satisfactorily the rate may be gradually increased until the desired loading rate is obtained when a further inspection must be made but no more tanks shall be loaded at anyone time than can be safely watched and controlled;

(c) the depth of oil in each cargo tank which is being loaded shall be constantly watched and the receiving rate shall be appropriately reduced towards the final stages of loading and to allow time for orderly control the slowing down of the receiving rate necessary during the "topping off" process should be anticipated and appropriate notice given to the staff in charge of the delivery; and after any tank valve has been closed, the liquid level in that tank shall be checked to ensure that the valve is properly closed;

(d) before discharging, all cargo deck line valves, sea valves and any stern loading and discharge valves which are not to be used, shall be inspected to ensure that they are tightly closed and where practicable such valves shall be set to the discharging position and checked to see that they are free and in good order;

(e) after hoses are connected no discharging shall commence until after the shore staff have indicated that they are ready to receive cargo; and where the back pressure in the shore line is such that there is a possibility of oil flowing from the shore to the ship, the ship's valve at the shore connection shall not be opened until the pressure is equalised;

(f) at the commencement of discharging, the cargo pumps shall be started slowly and the working pressure gradually built up; but during this process a constant watch shall be kept on the discharge pressure in order to ensure that the shore receiving lines are clear and that an excessive pressure is not being built up in the cargo lines; and when the desired rate of discharge has been reached a further inspection shall be made of any stern or other discharge valves not in use, of the cargo, hose and hose connections and of the water round the ship's side to see that no oil is escaping;

- (g) at frequent intervals during the discharging operations conditions in the pump room, the operating pressure in the cargo system and possible points of leakage shall be inspected; and the ship shall always be prepared to stop loading at short notice.

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### SCHEDULE

[Regulation 3.]

*Accidental and other exceptional discharges or escapes of oil*

#### PART I

<i>Date of Entry</i>					
1. Date and time of occurrence .....	.....	.....	.....	.....	.....
2. Place or position of ship .....	.....	.....	.....	.....	.....
3. Approximate quantity and type of oil .....	.....	.....	.....	.....	.....
4. Circumstances of discharge or escape and general remarks .....	.....	.....	.....	.....	.....

*Signature of officer or officers in charge of the operations concerned*

*Signature of Master*

#### PART II

A.—*Ballasting of and discharge of Ballast from Cargo Tankers*

<i>Date of Entry</i>					
1. Identity numbers of tank(s) .....	.....	.....	.....	.....	.....
2. Type of oil previously contained in tank(s) .....	.....	.....	.....	.....	.....
3. Date and place of ballasting .....	.....	.....	.....	.....	.....
4. Date and time of discharge of ballast water .....	.....	.....	.....	.....	.....
5. Place or position of ship at the time of discharge .....	.....	.....	.....	.....	.....

<i>Date of Entry</i>					
6. Approximate amount of oil contaminated water transferred to slop tank(s) .....	.....	.....	.....	.....	.....
7. Identity numbers of slop tank(s) .....	.....	.....	.....	.....	.....

*B.—Cleaning of Cargo Tanks*

<i>Date of Entry</i>					
8. Identity numbers of tank(s) cleaned ....	.....	.....	.....	.....	.....
9. Type of oil previously contained in tank(s) .....	.....	.....	.....	.....	.....
10. Identity numbers of slop tank(s) to which washings transferred .....	.....	.....	.....	.....	.....
11. Date and times of cleaning .....	.....	.....	.....	.....	.....

*C.—Settling in Slop Tanks and Discharge of Water*

<i>Date of Entry</i>					
12. Identity numbers of slop tank(s) .....	.....	.....	.....	.....	.....
13. Period of settling (in hours) .....	.....	.....	.....	.....	.....
14. Date and time of discharge of water ...	.....	.....	.....	.....	.....
15. Place or position of ship .....	.....	.....	.....	.....	.....
16. Approximate quantities of residue .....	.....	.....	.....	.....	.....

*D.—Disposal of only Oily Residues from Slop Tank(s) and other Sources*

<i>Date of Entry</i>					
17. Date and method of disposal .....	.....	.....	.....	.....	.....
18. Place or position of ship at time of disposal .....	.....	.....	.....	.....	.....
19. Sources and approximate quantities ....	.....	.....	.....	.....	.....

.....  
*Signature of officer or officers in  
charge of the operations concerned*

.....  
*Signature of Master*

**PART III**

<i>Date of Entry</i>					
(a) Ballasting during voyage of bunker fuel tanks—					
1. Identity number of tank(s) .....	.....	.....	.....	.....	.....
2. Type of oil previously contained in tank(s) .....	.....	.....	.....	.....	.....
3. Date and place of ballasting .....	.....	.....	.....	.....	.....
4. Date and time of discharge of ballast or washing water .....	.....	.....	.....	.....	.....
5. Place or position of ship .....	.....	.....	.....	.....	.....
6. Whether separator used: if so, give period of use .....	.....	.....	.....	.....	.....
7. Disposal of oily residue retained on board .....	.....	.....	.....	.....	.....
(b) Disposal from ship of oily residues from bunker fuel tanks and other sources—					
8. Date and method of disposal .....	.....	.....	.....	.....	.....
9. Place or position of ship .....	.....	.....	.....	.....	.....
10. Sources and approximate quantities .....	.....	.....	.....	.....	.....

*Signature of officer or officers in  
charge of the operations concerned*

*Signature of Master*