

MODEL SHIPPING (BALLAST WATER MANAGEMENT) REGULATIONS

This is the first model law for application in Pacific Island jurisdictions to make comprehensive provision for the implementation of the Ballast Water Management Convention.

Instructions for the Use of this Draft Model Law

This draft model law has been designed specifically for countries which have already enacted comprehensive marine pollution legislation, and in particular the model Marine Pollution Prevention Act prepared by SPC and SPREP, and last revised in 2002. For countries that have not enacted marine pollution legislation of that nature, it is recommended that instead of using this draft model law, consideration be given to enacting comprehensive marine pollution legislation based upon the recently revised Act, which now includes ballast water provisions consistent with the Ballast Water Management Convention. Those new provisions are similar to the provisions of these model draft Regulations.

This law has been prepared to facilitate the making of necessary legislation to effectively implement the Ballast Water Management Convention, but does require appropriate modifications to effectively implement its provisions in the particular country which intends to make use of it. In particular, care must be taken to make the appropriate modifications to the form and text of this model law to –

- (a) re-format the entire draft Regulations to comply with the drafting and formatting styles applicable in your jurisdiction;
- (b) state the appropriate enactment provisions before or after the list of provisions. Ensure that the relevant law under which they are to be made is identified. This could be the Shipping Act or the Marine Pollution Act, and should be referred to in the promulgation provision and identified in the first definition – “the Act”;
- (c) insert the year the law is made in regulation 1(1), and appropriate commencement provisions in regulation 1(2);
- (d) insert into the definition of “Administration” in regulation 2, the name of the Ministry or Maritime Administration which will have the primary responsibility for implementing this law
- (e) determine the title of the head of the implementing agency and modify all references to “Director” to reflect the appropriate terminology;
- (f) insert the name of the country in every place where the word *[country]* appears; and
- (g) insert appropriate fines where indicated in each of the offence provisions.

**DRAFT MODEL
SHIPPING (BALLAST WATER MANAGEMENT) REGULATIONS**

PART 1 - PRELIMINARY

1. Title and commencement
2. Interpretation
3. Application of the Ballast Water under law
4. Vessels to which the Ballast Water Management Convention applies

PART 2 – SURVEYS AND CERTIFICATION

5. Surveys and certification under the Ballast Water Management Convention
6. Surveyors and recognised organisations
7. Transfer of flag

PART 3 – BALLAST WATER MANAGEMENT

8. Obligations of owners and masters
9. Ballast Water and Sediment Management
10. Other powers of the Administration
11. Sediment Reception Facilities

PART 4 – INSPECTIONS AND ENFORCEMENT

12. Inspections and actions against vessels
13. Offences against these Regulations
14. Offences by vessels outside the jurisdiction

[Ensure that appropriate promulgation provisions are included here –

For example - IN exercise of the powers conferred upon me by sections xx of the Marine Pollution Act or the Shipping Act , I do hereby make these Regulations etc.]

PART 1 - PRELIMINARY

1. Title and commencement

(1) These Regulations shall be cited as the Shipping (Ballast Water Management) Regulations 20xx.

(2) These Regulations shall commence *[insert appropriate commencement provision]*

2. Interpretation

(1) In these Regulations, unless the context otherwise requires -

[Note: the following definitions need to be adapted to refer to the relevant country and appropriate terminology, and inserted in the correct alphabetical position in this section]

"[country] vessel" means a vessel owned in [country] or a vessel registered or required to be registered by law, or any other vessel based in [country] and operating under the authority of the Government;

"[country] waters" includes the internal waters, the territorial sea, the contiguous zone (if any) and the waters of the Exclusive Economic Zone, as provided for by law;

"Director" means the Director of the Administration *[Note this needs to be adapted to be a reference to the appropriate office within the Ministry/Administration, and consequential amendments made throughout the Act.]*

"the Act" means *[refer to the law under which these Regulations are made e.g. the Marine Pollution Act or the Shipping Act, or both]*

"the Administration" means *[insert the relevant Ministry or Maritime Administration or agency with primary responsibility for implementing this law]*, and in the context of action taken to implement and enforce these Regulations, includes action taken on behalf of the Administration by an authorised officer, a surveyor or a recognised classification society, when they are specifically authorised by these Regulations or by the Director to do so;

"Annex" means the Annex to the Ballast Water Management Convention;

"Authorised officer" means the Director and Principal Surveyor of the Administration, and includes –

- (a) every surveyor and other persons empowered to undertake surveys and inspections of vessels in accordance with these Regulations;
- (b) boarding officers employed by the Administration;
- (c) other officers of the Administration appointed by the Director to enforce these Regulations; and

- (d) other persons to whom the Director has delegated powers to enforce the provisions of these Regulations;

“Ballast Water” includes water with its suspended matter taken on board a ship to control trim, list, draught, stability or stresses of the ship, and has the meaning given to it in MARPOL 73/78 and the Ballast Water Management Convention;

“Ballast Water Management” means mechanical, physical, chemical and biological processes (either singularly or in combination) to remove, render harmless or to avoid the uptake or discharge of harmful aquatic organisms and pathogens within a vessel’s ballast water and sediments;

“International Ballast Water Management Certificate” and “Certificate” means the International Ballast Water Management Certificate specified in the Convention, and which shall be issued by the Administration in an approved form consistent with that prescribed by the Convention;

“Ballast Water Management Convention” and “Convention” means the International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004;

“FPSO” means floating production, storage and off-loading units;

“FSU” means floating storage units;

“Harmful aquatic organisms and pathogens” means aquatic organisms or pathogens which if introduced into the sea, including estuaries, or into fresh water courses may create hazards to the environment, human health, property or resources, impair biological diversity or interfere with other legitimate uses of such areas;

“International Maritime Organisation” and “IMO” mean the organisation set up under the International Maritime Organisation Convention, 1958 whose task is to develop a comprehensive body of international maritime conventions, codes and recommendations which could be implemented by all members to the conventions;

“Minister” means the Minister responsible for maritime transport;

“Notice to Mariners” means a Notice entitled as such published by the Administration, and includes any amendment made to the Notice from time to time;

“Owner” means the owner of a vessel to which these Regulations apply, and includes any organisation or person (including a manager or bareboat charterer of the vessel) who has assumed responsibility for operation of the vessel, and is

thereby responsible for its proper operation in accordance with these Regulations, and as required by the Administration under these Regulations;

“**Party**” means a State which is a Party to the Convention;

“**Port**” includes all ports declared under any law, and all other places where vessels load or discharge passengers or cargoes.

“**recognised classification society**” means an organisation recognised by the Administration for the purpose of conducting inspections and surveys in accordance with these Regulations on behalf of the Administration; and includes all prescribed classification societies under any law related to the registration of vessels; and

“**Sediments**” means matters settled out of Ballast Water within a vessel.

(2) Words and phrases used in these Regulations shall have the same meaning as is given to them in the Act and the Ballast Water Management Convention.

3. Application of the Ballast Water Management Convention under law

(1) In accordance with the provisions of the Act and any other applicable law, the Ballast Water Management Convention shall be a maritime convention to be applied, implemented and enforced in accordance with the Act, and shall be deemed to be an international marine pollution convention.

(2) The obligations, duties, legal processes and rights provided for under the Ballast Water Management Convention shall be deemed to be requirements enforceable in accordance with these Regulations in relation to vessels to which these Regulations apply, and a breach of any such obligation or duty shall be an offence for the purposes of regulation 13.

4. Vessels to which the Ballast Water Management Convention applies

(1) Subject to sub-regulations (2) and (5) and to any specific provisions of these Regulations, the provisions of these Regulations shall apply to -

- (a) vessels entitled to fly the flag of *[country]*;
- (b) vessels not entitled to fly the flag of *[country]* but which operate under the authority of *[country]*; and
- (c) other vessels when in ports and at offshore terminals in *[country]*.

(2) Subject to sub-regulation (3), the provisions of this Part shall not apply to permanent ballast water in sealed tanks on vessels, or to -

- (a) vessels not designed or constructed to carry Ballast Water;
- (b) any military vessel, naval auxiliary or other vessel owned or operated by a State and used, for the time being, only on government non-commercial service -

unless the Administration determines, in accordance with subsection (3) that the discharge of Ballast Water from such a vessel would impair, endanger or damage the environment, human health, property or resources, including such affects on other States;

(3) Where the Administration determines that the discharge of ballast water from a vessel to which subsection (2) applies may impair, endanger or damage the environment, human health, property or resources of *[country]* or of adjacent or other States, the Administration may serve written notice on the owner or master of the vessel, requiring that the provisions of the Ballast Water Management Convention be complied with in relation to the ballast water held in the vessel.

(4) A notice served under sub-regulation (3) may –

- (a) apply to a single voyage or for a specific period of time; and
- (b) specify any particular measures that the owner or master must undertake to achieve compliance with the Ballast Water Management Convention.

(5) The Administration may authorise a vessel which only operates in *[country]* waters, to operate without compliance with the provisions of these Regulations or the Ballast Water Management Convention, but the Administration shall not grant such authorisation if doing so would impair, endanger or damage the environment, human health, property or resources, of *[country]* or those of adjacent or other States.

(6) If the Administration refuses to grant an authorisation to a vessel under sub-regulation (5), the Director shall notify the maritime administration of that vessel that it is bound by the provisions of these Regulations and the Ballast Water Management Convention.

PART 2 – SURVEYS AND CERTIFICATION

5. Surveys and certification under the Ballast Water Management Convention

(1) [Country] vessels of 400 gross tonnage and above to which these Regulations apply (excluding floating platforms, FSUs and FPSOs), shall be subject to the surveys specified in Regulation E-1 of the Annex, and the satisfactory completion of such surveys shall be endorsed on the International Ballast Water Management Certificate as required by the Convention.

(2) In relation to vessels to which sub-regulation (1) applies the Administration—

- (a) may undertake inspections at any time, and –
 - (i) issue Certificates indicating compliance with the Convention; or
 - (ii) serve notice on the owner or master of the vessel prescribing measures to be undertaken for the vessel to achieve compliance with these Regulations and the Convention; and
- (b) may apply other appropriate measures, as determined by the Director, for the inspection, certification and regulation of such vessels in order to ensure that the requirements of the Convention are applied to those vessels.

(3) The Administration may apply the requirements of this regulation to all pleasure craft used solely for recreation or competition, and craft used primarily for search and rescue, which are less than 50 metres in length overall and with a maximum ballast water capacity of 8 cubic metres, and such measures shall –

- (a) take into account of the IMO *Guidelines for Ballast Water Management Equivalent Compliance (G3)*;
- (b) be published in a Notice to Mariners; and
- (c) be implemented by the owner and master of the craft.

(4) A Certificate may only be issued in relation to any vessel which has been surveyed under these Regulations and found to be in compliance with these Regulations and the Convention, and such Certificate shall be issued by or under the authority the Administration which shall assume full responsibility for the Certificate and the matters certified.

(5) The Administration may –

- (a) determine the period for which Certificates shall be valid, which shall be that specified in Regulation E-5 of the Annex, unless circumstances exist warranting a different period;
- (b) impose any conditions in relation to the vessel and its operations;
- (b) require the re-survey of any vessel during the period of any Certificate; and

- (c) revoke a Certificate and vary the conditions of any Certificate during its period of validity to ensure full compliance with these Regulations and the Convention.

(6) At the request of the Government of a Party, the Administration may cause a vessel to be surveyed and may issue or authorise the issue of a Certificate to the vessel in accordance with these Regulations, and—

- (a) each such Certificate shall contain a statement to the effect that it has been issued at the request of the Government of a Party; and
- (b) a copy of it together with a copy of the survey report shall be transmitted as early as possible to the maritime administration of the Government requesting the survey.

(7) No Certificate shall be issued by the Administration to a vessel which does not fly the flag of a Party.

6. Surveyors and recognised organisations

(1) Surveys of vessels for the purposes of applying and enforcing the provisions of these Regulations may be carried out by —

- (a) surveyors employed by the Administration;
- (b) other appropriately qualified persons appointed by the Minister to be surveyors for the purposes of these Regulations; and
- (c) recognised classification societies and other appropriate organisations recognised and appointed by the Minister for the purpose of undertaking surveys in accordance with the Guidelines and Specifications adopted by the IMO.

(2) The Administration may authorise and empower surveyors or recognised societies and organisations to -

- (a) require a vessel that they survey to comply with the provisions of these Regulations and the Convention; and
- (b) carry out surveys and inspections at the request of the appropriate authorities of a Port State that is a Party.

(3) The Administration shall notify the IMO of the specific responsibilities and conditions of the authority delegated to the surveyors or recognised societies and organisations under this regulation.

7. Transfer of flag

(1) Upon transfer of a [Country] vessel to the flag of another Party, the Administration shall transmit as soon as possible to the Government of the State concerned, a copy of the Certificate carried by the vessel before the transfer and, if available, a copy of the vessel's most recent survey report, if the State makes such a request within 3 months after the transfer has taken place.

(2) Where a vessel is transferred to the [Country] registry, a new Certificate shall only be issued when the Administration is fully satisfied that the vessel is in full compliance with the requirements of these Regulations and the Ballast Water Management Convention (including Regulation E-1 of the Annex).

PART 3 – BALLAST WATER MANAGEMENT

8. Obligations of owners and masters

(1) The owner, master or agent of any vessel to which these Regulations apply, must –

- (a) ensure that a Ballast Water Management Plan has been prepared for the vessel and is kept on board and implemented at all times, in accordance with Regulation B-1 of the Annex;
- (b) ensure that a Ballast Water record book complying with Regulation B-2 of the Annex –
 - (i) is maintained and kept on board at all times;
 - (ii) records all entries for a minimum period of 2 years prior to the current date;
 - (iii) is kept in the Owner's control for a minimum period of 3 years after the record book is full;
 - (iv) contains entries as required by Regulation B-3.3 and B-3.5 and B-4 of the Annex; and
 - (v) is kept readily available for inspection at all reasonable times, and in the case of an unmanned vessel under tow it may be kept on the towing vessel;
- (c) ensure that officers and crew are familiar with their duties in relation to the implementation of Ballast Water Management relevant to the vessel on which they serve, and are familiar with the vessel's Ballast Water Management Plan, as it applies to their specific duties;

- (d) ensure that the condition of the vessel and its equipment, systems and processes are maintained so as to comply with these Regulations and the provisions of the Ballast Water Management Convention, to ensure that the vessel remains fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources;
- (e) after any survey of a vessel under these Regulations has been completed, ensure that no change is made in the structure and any equipment, fittings, arrangements or material associated with the vessel's Ballast Water Management, without the prior approval of the Administration, except where the replacement of such equipment or fittings with identical items is undertaken;
- (f) provide a full report at the earliest opportunity to the Administration of any accident which occurs to a vessel or when a defect is discovered which affects or impacts upon the ability of the vessel to conduct Ballast Water Management in accordance with its Plan, and the Convention or these Regulations;
- (g) provide a report to the Administration as soon as possible after any ballast water is discharged from the vessel into [*country*] waters that does not comply with any requirement of these Regulations or the Convention, and provide such further information in relation to the discharge as may be required by the Administration; and
- (h) cause investigations to be initiated to determine whether a survey is necessary after an accident has occurred or such a defect is discovered, and provide a report to the Administration in relation to such matters.

(2) Each Ballast Water Management Plan must –

- (a) detail safety procedures for the vessel, and its crew who have responsibilities for the management of ballast water;
- (b) provide a detailed description of the actions to be taken to implement Ballast Water Management and supplemental practices in accordance with the Convention;
- (c) detail procedures for the disposal of sediments at sea and on shore which comply with the requirements of these Regulations and the Convention;
- (d) designate officers and crew with responsibilities for implementing the Plan and observing the requirements of the Convention;
- (e) specify appropriate reporting responsibilities and procedures; and

- (f) be written in the English language, with an English translation provided if it is written in a language other than English.

9. Ballast Water and Sediment Management

(1) The owners and masters of all vessels to which these Regulations apply must –

- (a) conduct Ballast Water Management in accordance with Regulation B-3 of the Annex;
- (b) ensure that all ballast water management systems are in accordance with Regulation D-3 of the Annex.
- (c) when conducting Ballast Water exchange to meet the standard in Regulation D-1 of the Annex, do so in accordance with Regulation B-3 of the Annex; and
- (d) remove and dispose of sediments in accordance with Regulation B-5 of the Annex.

(2) The requirements of regulation 8(1)(a) and subsection (1)(a) of this regulation shall not apply in the circumstances set out in Regulation A-3 of the Annex, and subject to subsections (3) and (4) the Administration may grant exemptions for [Country] waters, in relation to any of those requirements in the circumstances set out in Regulation A-4 of the Annex.

(3) Exemptions granted pursuant to sub-regulation (2) shall not be effective until after communication to the IMO and circulation of relevant information to the Parties has been effected.

(4) The Administration shall not grant an exemption under this regulation which may impair, endanger or damage the environment, human health, property or resources, or those of adjacent or other States.

(5) Any exemptions granted under this regulation must be recorded in the ballast water record book of the relevant vessel.

10. Other powers of the Administration

(1) If it is determined by an authorised officer that a vessel's ballast water management does not conform to the requirements of these Regulations or the Convention, or the conditions of the Certificate, or is such that the vessel is not fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources, the Administration shall determine the corrective action that must be taken to bring the vessel into compliance, and the Administration -

- (a) may cancel and withdraw the Certificate if it is current, and require the cancelled certificate to be surrendered to the Administration;
- (b) may refuse to issue a Certificate if no current Certificate is in effect;
- (c) shall ensure that the appropriate authorities of that State are notified, if the vessel is in the port of another Party;
- (d) may detain the vessel; and
- (e) may take all necessary action and exercise all appropriate powers under the maritime laws to ensure that the defects or breaches are remedied.

(2) The Administration may by notice published in a Notice to Mariners specify measures which it considers necessary to prevent, reduce or eliminate the transfer of harmful aquatic organisms and pathogens through ballast water and sediments, and such measures shall take account of Guidelines developed by the IMO.

(3) A Notice to Mariners given under sub-regulation (2) shall –

- (a) specify the additional measures;
- (b) list all appropriate services, including notification to mariners of areas, available and alternative routes or ports, as far as practicable; and
- (c) recite any approvals given by the IMO.

(4) It shall be the duty of every owner and master to comply with the additional measures notified under this regulation.

(5) The Administration may, by notice published in a Notice to Mariners, vary or waive any measures imposed under this regulation for a period of time or in any specified circumstances.

(6) The Administration may issue a Notice to Mariners to notify mariners of areas in [*Country*] waters where vessels should not uptake ballast water due to known conditions including –

- (a) outbreaks, infestations or populations of harmful aquatic organisms and pathogens (such as toxic algal blooms) which are likely to be of relevance to ballast water uptake or discharge;
- (b) the location of sewage outfalls; or
- (c) tidal flushing which is poor, or if the tidal stream is known to be more turbid -

and such notices may include the precise coordinates of the area or areas, and the location of any alternative area or areas for the uptake of ballast water.

(7) The Administration shall notify the IMO and all potentially affected coastal States of any areas identified under sub-regulation (6), and the time period such warning is likely to be in effect, and all such notifications shall include –

- (a) the precise co-ordinates of the area or areas;
- (b) the location of any alternative area or areas for the uptake of ballast water, if any; and
- (c) advice to vessels needing to uptake ballast water in the area, describing arrangements made for alternative supplies.

(8) The Administration shall also notify mariners, the IMO and any potentially affected coastal States when a warning given under sub-regulation (6) is no longer applicable.

11. Sediment Reception Facilities

(1) All facilities for the reception and disposal of sediments at ports and any other location must be designed, constructed, managed and operated so as to effectively contain the sediments taken from vessels, and protect the environment and human health, and must –

- (a) comply with the requirements of these Regulations, the Convention and any requirements applied from time to time by the Administration; and
- (b) be open to inspection by officers of the Administration at any time; and
- (c) be designated for the purposes of Article 5 of the Convention.

(2) The Administration may –

- (a) prescribe standards applying to any sediment reception facility;
- (b) determine and apply requirements for the operation of such reception facilities without causing undue delay to vessels, and to provide for the safe storage, treatment and disposal of sediments so as not to impair or damage the environment, human health, property or resources, or those of other States; and
- (c) issue any directions necessary for implementing the requirements of the Convention relating to reception facilities for sediments.

PART 4 – INSPECTIONS AND ENFORCEMENT

12. Inspections and actions against vessels

(1) All vessels to which these Regulations apply are subject to inspection by authorised officers for the purpose of determining whether the vessel is in compliance with these Regulations and the Convention, and any such inspection may be conducted to -

- (a) verify that the vessel has a valid Certificate, and that it is kept on board;
- (b) confirm that ballast water record book is being carried and properly kept and maintained for the vessel; and
- (c) take samples of the vessel's ballast water for testing, but the time required to analyse the samples shall not be used as a basis for unduly delaying the operation, movement or departure of the vessel.

(2) Where a vessel does not carry a valid Certificate, or if there are grounds upon which an authorised officer believes that –

- (a) the condition of the vessel or its equipment is not in compliance with the Certificate; or
- (b) the master or the crew are not familiar with essential shipboard procedures relating to Ballast Water Management, or have not implemented such procedures -

the owner and master must permit a detailed inspection of the vessel to be carried out by the Administration, or cause such an inspection to be carried out in any manner required by the Administration.

(3) An authorised officer undertaking an inspection under sub-regulation (2) may give directions to the owner or master of the vessel and take such steps as are necessary to ensure that the vessel does not discharge ballast water until it can do so without presenting a threat of harm to the environment, human health, property or resources.

(4) If a vessel is found to have contravened these Regulations, then in addition to any other powers under these Regulations or any other law, the Administration may –

- (a) issue a warning to the owner or master;
- (b) detain the vessel until it is made to comply with the requirements of these Regulations and the Convention, or rendered safe as required by these Regulations;

- (c) order that the vessel be excluded from [*country*] water, and from ports and off-shore facilities in those waters; or
- (d) grant permission to leave the port or offshore terminal for the purpose of discharging ballast water or proceeding to the nearest appropriate repair yard or reception facility, if the movement of the vessel does not present a threat of harm to the environment, human health, property or resources.

(5) If a sample of ballast water taken from a vessel indicates that the vessel poses a threat to the environment, human health, property or resources, the Administration may issue a notice to the vessel to prohibit any discharge of ballast water until the threat is removed.

(6) An authorised officer may also inspect a vessel when it enters port or an offshore terminal, if a request for an investigation is received from any State Party to the Convention, and the report of such investigation shall be sent to the State requesting it and to the competent authority of the maritime administration of the vessel concerned so that appropriate action may be taken.

(7) In the event that any action is taken in relation to a vessel under the authority of this regulation, the officer taking the action shall give written notice to the Administration of the vessel concerned, or if this is not possible, to the consul or diplomatic representative of the vessel concerned, of the action taken against it.

(8) The Administration shall also notify the vessel's next port of call of all relevant information about the violation.

(9) If the Administration exercises a power of detention arising from an alleged contravention of these Regulations, it shall authorise the release of the vessel if -

- (a) no proceedings for the offence in question are instituted within 3 working days including the day the vessel is detained;
- (b) the master or owner is not convicted in any such proceedings;
- (c) the sum of US\$100,000 is lodged with the Administration by way of security;
- (d) where the master or owner is convicted of the offence, all fines, costs and expenses are paid in full in accordance with the court's order; or
- (e) the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea, 1982, and any bond or other financial security ordered by such a court or tribunal is posted.

(10) The Administration shall repay any sum paid in pursuance of sub-regulation (9)(c) or release any security so given -

- (a) if no proceedings for the offence in question are instituted within 7 days beginning with the day on which the sum is paid; or
- (b) if such proceedings, having been instituted within that period, are concluded without the master or owner being convicted.

(11) Where security has been given, by any person in accordance with sub-regulation (9)(c) and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied as follows -

- (a) first in payment of any costs or expenses ordered by the Court to be paid by the master or owner; and
- (b) next in payment of any fine imposed by the Court; and
- (c) and any balance shall be repaid to the person giving the security.

13. Offences against these Regulations

(1) The owner and master of a vessel to which these Regulations apply each have a duty to ensure that the vessel complies with the provisions of these Regulations, and are jointly and severally liable in relation to any breach.

(2) Any person who breaches any requirement under these Regulations, or who fails to comply with any notice, order or direction given by the Administration under the authority of these Regulations, commits an offence and shall be liable upon conviction to a fine not exceeding *[insert an appropriate fine]* or to imprisonment for a term of 6 months, or both.

(3) It shall be a defence for a person charged with a breach of sub-regulation (1) or (2) to show that all reasonable precautions were taken and that he or she exercised all due diligence to avoid the commission of the offence.

(4) If a fine, or an order for the payment of costs or expenses, imposed by a Court in proceedings for an offence under these Regulations is not paid, the Court may, in addition to any other powers for enforcing payment, order the amount remaining unpaid to be levied by distress or arrest and sale of the vessel, or its tackle, furniture and apparel.

(5) In addition to imposing a fine upon conviction of a person under these Regulations, the court may order the person to pay compensation arising from any pollution caused by the commission of the offence, including the costs of responding to any such pollution.

14. Offences by vessels outside the jurisdiction

(1) In accordance with the requirement of the Convention, the Administration shall cooperate with a maritime administration of another Party in relation to proceedings against a vessel for a breach of the Convention in the jurisdiction of that Party.