

**A DRAFT BILL  
ENTITLED THE  
BALLAST  
WATER  
MANAGEMENT  
ACT**

## Table of Contents

<b>ARRANGEMENT OF SECTIONS .....</b>	<b>3</b>
<b>BALLAST WATER MANAGEMENT ACT, 2010 .....</b>	<b>4</b>
<b>PART I – PRELIMINARY.....</b>	<b>4</b>
<b>PART II.....</b>	<b>5</b>
<b>SURVEYS AND CERTIFICATES.....</b>	<b>5</b>
<b>PART III.....</b>	<b>7</b>
<b>CONTROL AND MANAGEMENT OF SHIPS’ BALLAST .....</b>	<b>7</b>
<b>PART IV .....</b>	<b>11</b>
<b>SUPPLEMENTARY.....</b>	<b>11</b>
<b>SCHEDULE 1.....</b>	<b>18</b>
<b>BALLAST WATER RECORD BOOK .....</b>	<b>18</b>
<b>FORM OF BALLAST WATER RECORD BOOK.....</b>	<b>20</b>
<b>L. I. ....</b>	<b>21</b>
<b>BALLAST WATER MANAGEMENT (SEDIMENT RECEPTION FACILITIES)</b>	
<b>REGULATIONS, 2010 .....</b>	<b>21</b>
<b>SCHEDULE.....</b>	<b>25</b>
<b>FORMAT FOR REPORTING .....</b>	<b>25</b>

# **BALLAST WATER MANAGEMENT ACT, 2010**

## **ARRANGEMENT OF SECTIONS**

### **PART I - PRELIMINARY**

#### Section

1. Scope of Application
2. Exceptions
3. Regulatory Authority

### **PART II – SURVEYS AND CERTIFICATES**

4. Surveys
5. Nominated surveyors and recognised organizations
6. Issue of Certificate
7. Issue of Certificate upon request by a State Party
8. Form of Certificate
9. Corrective action
10. Report of accidents and defects
11. Maintenance requirements
12. Duration and validity of certificate
13. Transfer of flag

### **PART III - CONTROL AND MANAGEMENT OF SHIPS' BALLAST WATER AND SEDIMENTS**

- 14 Control of Ballast Water Discharge
- 15 Exception from control
- 16 Exemptions
- 17 Equivalence
- 18 Ballast Water Management plan
- 19 Ballast Water Record Book
- 20 Duties of Officers and Crew
- 21 Ballast Water Management Systems
- 22 Additional Measures in certain Areas
- 23 Warnings concerning Ballast Water uptake in certain areas
- 24 Reception facilities

### **PART IV – SUPPLEMENTARY**

- 25 Inspection of ships which are not Ghanaian ships
- 26 Detection of violations and control of ships
- 27 Notification of control actions
- 28 Undue delay to ships
- 29 Service of documents on shipowners, application of fines, etc.
- 30 Restriction on jurisdiction over offences outside Ghana
- 31 Suspension of proceedings at flag State request
- 32 Offences and penalties
- 33 Protection of Government and public officers
- 34 Power to make regulations and amend Act
- 35 Interpretation

**A  
BILL  
ENTITLED**

**BALLAST WATER MANAGEMENT ACT, 2010**

An Act to give effect to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004, and to provide for related matters.

**PASSED BY Parliament and assented to by the President**

**PART I – PRELIMINARY**

**1. Application**

(1) Except as expressly provided otherwise in this Act, this Act shall apply to:

(a) ships registered or licenced in accordance with the Ghana Shipping Act, 2003 Act 645

(b) ships not entitled to fly the flag of Ghana but which operate under the Authority of Ghana; and

(c) other ships when in port and offshore terminals within Ghana's maritime jurisdiction .

(2) In the case of non Ghanaian ships the Authority shall notify the flag state of the ship concerned that this Act applies to such a ship

**Exceptions**

**2.** (1) This Act shall not apply to:

(a) ships not designed or constructed to carry Ballast Water;

(b) Ghanaian ships which only operate in Ghanaian waters,

(c) other ships which only operate in Ghanaian waters

(d) ships which only operate in Ghanaian waters and on the high seas,

(e) any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service; and

(f) permanent Ballast Water in sealed tanks on ships, that is not subject to discharge.

(2) The Authority may apply the provisions of this Act to ships in sub-section 1 of this section if it determines that the discharge of Ballast Water from such ships would impair or damage the environment, human health, property or resources of Ghana or an area within its maritime jurisdiction, or those of adjacent or other States.

## **Regulatory Authority**

3. The Ghana Maritime Authority is the Regulatory Authority for this Act. The Authority shall carry out these functions in collaboration with the other relevant agencies.

## **PART II**

### **SURVEYS AND CERTIFICATES**

4 (1) Ghanaian ships of 400 gross tonnage and above to which this Act applies, excluding floating platforms, FSUs and FPSOs, shall be subject to the surveys specified in this Act and any other relevant legislation . Surveys shall be endorsed on the Certificate to this Act.

(2) The Minister may make Regulations to provide for appropriate measures for ballast water management for ships that are not subject to the provisions of section 4(1). .

5 (1) Surveys of ships for the purpose of enforcement of the provisions of this Act shall be carried out by surveyors appointed by the Authority.

(2) The Authority may, however, entrust the surveys referred to in section 5 (1) to either of the following:

- (a) surveyors nominated for the purpose or
- (b) organizations recognized by the Authority, in accordance with the guidelines and the specifications adopted by the Organization

(3) The Authority, in nominating surveyors or organizations under sub-section (2) shall, empower such nominated surveyors or recognized organizations to:

- (a) require a ship that they survey to comply with the provisions of this Act; and
- (b) carry out surveys and inspections if requested by the appropriate authorities of a flag State that is a Party.

(4) The Authority shall notify the Organization of the specific responsibilities and conditions of the powers delegated to the nominated surveyors or recognized organizations.

### **Issue of certificate**

6 (1) A Certificate shall be issued, after successful completion of a survey in accordance with section 4 to any Ghanaian ship to which that section applies.

(2) The Certificate shall be issued either by the Authority or by any person or organisation duly authorised to issue the Certificate on behalf of the Authority.

## **Issue of certificate upon request by the Government of a Party**

7 (1) The Authority may at the request of the Government of a Party cause a ship to be surveyed and, if satisfied that the provisions of this Act have been complied with, shall issue or authorise the issue of a Certificate to the ship in accordance with this Part.

(2) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Government of a Party and a copy of it together with a copy of the survey report shall be transmitted as early as possible to the Government requesting the survey.

(3) A Certificate issued by another Party in respect of a Ghanaian ship at the request of the Authority, shall have the same force and receive the same recognition in Ghana as a Certificate issued under this Part.

(4) No Certificate shall be issued to a ship which does not fly the flag of a Party.

## **Form of certificate**

8 A Certificate shall be in the form prescribed in the 1<sup>st</sup> Schedule to this Act .

## **Corrective action**

9 (1) When the Authority, a nominated surveyor, or a recognized organization determines that the ship's Ballast Water Management does not conform to the particulars of the Certificate required under section 6 or 7 or is such that the ship is not fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources, then the Authority, surveyor or organization shall immediately ensure that corrective action is taken to bring the ship into compliance. The Authority shall ensure that the Certificate is not issued or is withdrawn as appropriate. If the ship is in the port of another Party, the appropriate authorities of that State shall be notified immediately.

## **Report of accidents and defects**

10 (1) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the ability of the ship to conduct Ballast Water Management in accordance with the Convention or this Act, as appropriate, the owner, operator or other person in charge of the ship shall report at the earliest opportunity to the Authority, the recognized organization or the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by section 4 is necessary.

(2) If the ship is in a port of another Party, the owner, operator or other person in charge shall also report immediately to the appropriate authorities of the port State and the nominated surveyor or recognized organization shall ascertain that such report has been made.

## **Maintenance requirements**

11 The owner, master or agent of any ship to which this Act applies shall ensure that –

- (a) the condition of the ship and its equipment, systems and processes shall be maintained to conform with the provisions of this Act and that the ship in all respects will remain fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources; and

- (b) after any survey of the ship under section 4 has been completed, no change shall be made in the structure, any equipment, fittings, arrangements or material associated with the Ballast Water Management plan required by this Act and covered by the survey without the prior approval of the Authority, except the direct replacement of such equipment or fittings.

### **Duration and Validity of Certificate**

12 (1) The duration and validity of the Certificate shall be that specified in the Certificate

### **Transfer of flag**

13 (1) Upon transfer of a Ghanaian ship to the flag of another Party, where such State so requests within three months after the transfer has taken place, the Authority shall transmit as soon as possible to the Government of the State concerned, a copy of the Certificate carried by the ship before the transfer and, if available and a copy of the ship's most recent survey report.

(2) Where a ship is transferred to the Ghanaian flag, a new Certificate shall only be issued when the Authority is fully satisfied that the ship is in full compliance with the requirements of this Act.

## **PART III CONTROL AND MANAGEMENT OF SHIPS' BALLAST WATER AND SEDIMENTS**

### **Control of the Discharge of Ballast Water**

14 Except where expressly provided otherwise in this Act, the owner and master of a ship shall ensure that the discharge of Ballast Water is conducted in accordance with the provisions of this Act.

### **Exceptions from control**

15 (1) The Minister shall have the power to make Regulations providing circumstances under which the requirements of section 14, or any measures prescribed by this Act will not be applied.

(2) Notwithstanding section 1 this Act shall not apply in the event of an accidental discharge or ingress of ballast water and sediments resulting from damage to a ship or its equipment, provided that all reasonable precautions have been taken for the purpose of preventing or minimizing the discharge before and after the occurrence of the damage, or after the discovery of the damage.

The ballast water and sediments management requirements of this Regulation shall not apply in the event of emergencies when the uptake and discharge of ballast water and sediments is necessary with respect to the safety of the ship, the health of those on board or to save life at sea.

## **Exemptions**

16 (1) Subject to subsections (3) and (4) the Authority may grant exemptions, in relation to Ghanaian waters, to any requirements of section 20 or 24, in addition to those exemptions contained elsewhere in this Act.

(2) The Minister may make regulations prescribing the circumstances under which the Authority may grant exemptions in relation to Ghanaian waters.

(3) Exemptions granted pursuant to subsection (1) shall not be effective until it is communicated to the Organization and relevant information circulated to the Parties.

(4) The Authority shall not grant an exemption under this section which would impair or damage the environment, human health, property or resources of adjacent or other States.

(5) Any exemptions granted under this section shall be recorded in the Ballast Water Record Book.

## **Equivalence**

17 (1) The Authority shall establish measures which provide equivalent compliance with the requirements of this Act for pleasure craft used solely for recreation or competition or craft used primarily for search and rescue, less than 50 metres in length overall, and with a maximum Ballast Water capacity of 8 cubic metres. In establishing such measures the Authority shall take into account IMO 'Guidelines for Ballast Water Management Equivalent Compliance (G3).

(2) Measures established under this section shall be published by the Authority for the information of the Shipping public in a Shipping Notice.

(3) It shall be the duty of the owner and master of a craft referred to in subsection (1) to comply, and ensure compliance, with any measures established under that subsection.

## **Ballast Water Management Plan**

18 Every ship shall have on board and implement a Ballast Water and sediments Management Plan in accordance with the IMO Guidelines.

The plan shall be specific to each ship and shall provide a detailed description of the actions to be taken and the routines to be utilised to implement the ballast water and sediments management requirements as set forth in this Act and any regulations made under it.

The plan shall include an identification of the officers on board who are in charge of ensuring that the plan is properly implemented.



The plan shall be written in the working language of the ship. If the language used is not English, French or Spanish, a translation into one of these languages shall be included. The programme must be approved in accordance with the IMO Guidelines.

### **Ballast Water Record Book**

19 (1) Every ship shall have on board a Ballast Water Record Book which complies with Schedule (1) one of this Act.

(2) Ballast Water Record Book entries shall be maintained on board the ship for a minimum period of two years after the last entry has been made and thereafter in the Company's control for a minimum period of three years.

(3). The Ballast Water Record Book shall be kept readily available for inspection at all reasonable times and, in the case of an unmanned ship under tow, may be kept on the towing ship.

(4) Entries in the Ballast Water record book shall be made on each of the following occasions:

- a. When Ballast Water is taken on board:
- b. Date, time and location port or facility of uptake (port or lat/long), depth if outside port
- c. Estimated volume of uptake in cubic metres
- d. Signature of the officer in charge of the operation.
- e. Whenever Ballast Water is circulated or treated:
- f. Date and time of operation
- g. Estimated volume circulated or treated (in cubic metres)
- h. Whether conducted in accordance with the Ballast Water Management plan
- i. Signature of the officer in charge of the operation
- j. When Ballast Water is discharged into the sea

### **Duties of officers and crew**

20 The owner and master of a ship shall ensure that officers and crew are familiar with their duties in the implementation of Ballast Water Management particular to the ship on which they serve and are, appropriate to their duties, familiar with the ship's Ballast Water Management plan.

## **Ballast Water Management Systems**

21 All ballast water management systems shall be in accordance with this Act. The Minister shall have power to make regulations relating to ballast management systems.

Ballast water shall be treated with technology approved in accordance with the IMO Guidelines before it is discharged.

### **Additional measures in certain areas**

22 (1) The Authority may, with the approval of the Organisation and by notice published in a Shipping Notice specify measures additional to those in sections 18 to 21 which it considers necessary to prevent, reduce or eliminate the transfer of Harmful Aquatic Organisms and Pathogens through ships' Ballast Water and Sediments. In specifying such measures the Authority shall take into account Guidelines developed by the Organisation

(2) The Shipping Notice 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 the approval of IMO.

(3) It shall be the duty of every owner and master to comply with the additional measures.

(4) The Authority may, by notice published in a Shipping Notice, waive these additional measures for a period of time or in specified circumstances.

### **Warnings concerning Ballast Water uptake in certain areas**

23 (1) The Authority shall by Shipping Notice/Notice to Mariners notify mariners of areas in Ghanaian waters where ships should not uptake Ballast Water due to known conditions. Such notices shall include the precise coordinates of the area or areas, and, where possible, the location of any alternative area or areas for the uptake of Ballast Water. In particular, warnings may be issued for areas:

- (a) known to contain outbreaks, infestations, or populations of Harmful Aquatic Organisms and Pathogens (e.g., toxic algal blooms) which are likely to be of relevance to Ballast Water uptake or discharge;
- (b) near sewage outfalls; or
- (c) where tidal flushing is poor or times during which a tidal stream is known to be more turbid.

(2) In addition to such Notices, the Authority shall notify the Organization and any potentially affected coastal States of;

- (a) any areas identified in accordance with subsection (1);
- (b) the time period such warning is likely to be in effect; and

(c) the precise co-ordinates of the area or areas, and, where possible, the location of any alternative area or areas for the uptake of Ballast Water.

(3) Pursuant to sub-section 2 of this section the Authority shall advise ships needing to uptake Ballast Water in the identified areas on arrangements made for alternative supplies.

(4) The Authority shall also notify mariners, the Organization, and any potentially affected coastal States when a given warning is no longer applicable.

### **Reception facilities**

24 (1) (a) The Port Authority in respect of a port or the Terminal Operator in respect of a terminal, where cleaning or repair of ballast tanks occurs, shall provide adequate facilities for the reception of Sediments from ships using the port or terminal.

(b) A port authority, facility or terminal operator within whose port, facility or terminal cleaning or repair of ballast tanks is undertaken shall notify the Authority of this activity.

(2) The Minister shall designate ports for the purposes of this Act.

(3) The Minister may make regulations –

- (i) prescribing criteria for determining the adequacy and accessibility of reception facilities at ports and terminals designated in accordance with subsection (2), to ensure such reception facilities operate without causing undue delay to ships, and provide for the safe disposal of such Sediments so as not to impair or damage the environment, human health, property or resources, or those of other States; and
- (ii) generally for implementing the requirements of the Convention relating to reception facilities for Ballast Water or Sediments.

## **PART IV SUPPLEMENTARY**

### **Inspection of ships which are not Ghanaian ships**

25 (1) A ship which is not a Ghanaian ship to which this Act applies may, in any port or offshore terminal within Ghana's Maritime Jurisdiction, be subject to inspection by officers duly authorized by the Authority for the purpose of determining whether the ship is in compliance with this Act. Except as provided in subsection (2) below, any such inspection is limited to:

(a) verifying that there is onboard a valid Certificate, which, if valid shall be accepted; and

(b) inspection of the Ballast Water record book; and/ or

(c) a sampling of the ship's Ballast Water, carried out in accordance with the guidelines by the Organization (if any). However, the time required to analyse the samples shall not be used as a basis for unduly delaying the operation, movement or departure of the ship.

(2) Where a ship does not carry a valid Certificate or there are clear grounds for believing that –

(a) the condition of the ship or its equipment does not correspond substantially with the particulars of 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, a detailed inspection may be carried out.

(2) In the circumstances given in subsection (2), the inspector shall take such steps as will ensure that the ship shall not discharge Ballast Water until it can do so without presenting a threat of harm to the environment, human health, property or resources.

### **Detection of violations and control of ships**

26 (1) If a ship which is not a Ghanaian ship which is operating in a Ghanaian port or offshore terminal, is found to have contravened this Act, then, without prejudice to any penalties provided elsewhere in this Act, or any action described in section 25 the Authority may take steps to warn, detain, or exclude the ship. The Authority, however, may grant such a ship 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 available, provided doing so does not present a threat of harm to the environment, human health, property or resources.

(2) If the sampling described in section 25(1)(c) leads to a result, or supports information received from another port or offshore terminal, indicating that the ship poses a threat to the environment, human health, property or resources, The Authority shall prohibit such ship from discharging Ballast Water until the threat is removed.

(3) An inspector may also inspect a ship when it enters a Ghanaian port or offshore terminal, if a request for an investigation is received from any State Party to the Convention, together with sufficient evidence that a ship is operating or has operated in violation of a provision in this Convention. The report of such investigation shall be sent to the State requesting it and to the competent authority of the ship concerned so that appropriate action may be taken.

### **Notification of control actions**

27 (1) If an inspection conducted pursuant to this Act indicates a violation of this Act, the Authority shall notify the ship. The Authority shall forward a report to the Administration of the ship concerned, including any evidence of the violation.

(2) In the event that any action is taken in relation to a ship pursuant to section 25(3) or section 26(1) or (2), the officer carrying out such action shall forthwith inform, in writing, the Administration of the ship concerned, or if this is not possible, the consul or diplomatic representative of the ship concerned, of all the circumstances in which the action was deemed necessary. In addition, the recognized organization responsible for the issue of certificates shall be notified.

(3) The Authority shall, in addition to parties mentioned in subsection (2), notify the next port of call of all relevant information about the violation, if it is unable to take action as specified in section 25(3) or section 26(1) or (2) or if the ship has been allowed to proceed to the next port of call.

## **Undue delay to ships**

28 (1) The Authority shall make every possible effort to avoid unduly detaining or delaying a ship under section 26.

(2) A ship that is unduly detained or delayed under sections 25, 26 or 27 shall be entitled to compensation for any loss or damage suffered.

## **Service of documents on shipowners, application of fines, etc.**

29 (1) Any document required or authorised, by virtue of the provisions of this Act or any Regulations made pursuant to this Act, to be served on a shipowner for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Act alleged to have been committed by the owner, shall be treated as duly served on that owner if the document is served in accordance with the provisions of this Act; and any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Act (whether or not in pursuance of the foregoing provisions of this subsection) shall, for that purpose, have the right to go on board the ship in question.

(2) A Court exercising the power of detention in respect of an alleged contravention of this Act shall immediately release the ship if-

- (a) no proceedings for the offence in question are instituted within 3 working days including the day the ship is detained;
- (b) such proceedings, having been instituted through exercise of the power conferred by subsection (1), within that period, are concluded without the master or owner being convicted;
- (c) either-
  - (i) the sum of US\$100,000 or its equivalent in Ghana cedis is paid to the Administration by way of security; or
  - (ii) security which, in the opinion of the Administration, is satisfactory and is for an amount not less than US\$100,000.00 dollars is given to the Minister, by or on behalf of the master or owner; or
- (d) where the master or owner is convicted of the offence, any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid, or;

(3) The Administration shall repay any sum paid in pursuance of subsection (2) (c) or release any security so given-

- (a) if no proceedings for the offence in question are instituted within seven 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.

(4) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (2) (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 any balance shall be repaid to the person paying the sum, or giving the security.

(5) Where a fine imposed by a Court in proceedings against the owner or master of a ship for an offence under this Act is not paid or any costs or expenses ordered to be paid by him are 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 arrest and sale of the ship, her tackle, furniture and apparel.

(6) Where a person is convicted of an offence under this 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.

### **Restriction on jurisdiction over offences outside Ghanaian limits**

30 (1) No proceedings for an offence of contravening any provision of this Act by a ship not being a Ghanaian ship which relates to a discharge in the internal waters, territorial seas or exclusive economic zone of another State shall be instituted unless-

- (a) that State, the flag State or a State damaged or threatened by the discharge requests that proceedings be taken; or
- (b) the discharge has caused or is likely to cause pollution in the internal waters, territorial sea, or exclusive economic zone of Ghana.

(2) Where proceedings for an offence of contravening any provision of this Act by a ship not being a Ghanaian ship which relates to a discharge in the internal waters, territorial seas or exclusive economic zone of another State have been instituted but not concluded, and that State requests suspension of the proceedings, then-

- (a) proceedings shall be suspended; and
- (b) The Authority shall transmit all the evidence and Court records and documents relating to the case, together with any sum paid or security given pursuant to section 33(2) (c), to that State.

(3) It shall be a defence to a person charged with contravening any provision of this Act to show-

- (a) that the ship is not a Ghanaian ship; and
- (b) the discharge took place outside the maritime jurisdiction of Ghana, its internal waters; and
- (c) the ship was in a port in Ghana at the time of institution of proceedings by reason only of stress of weather or other reason beyond the control of the master or owner or charterer.

## **Suspension of proceedings at flag State request**

31 (1) This section relates to an alleged offence or contravention of any provision of this Act by a ship which is not a Ghanaian ship in relation to a discharge outside Ghana or its territorial seas.

(2) (a) Any proceedings for such an offence shall be stayed if the Court is satisfied that the flag State has instituted proceedings corresponding to the proceedings in Ghana in respect of the discharge, within six months of the institution of proceedings in Ghana.

(b) Paragraph (a) above does not apply-

(i) where the discharge resulted in damage in excess of US \$50,000.00 to Ghana;  
or

(ii) The Authority certifies that the flag State has repeatedly disregarded its obligation to enforce effectively the requirements of any Convention referred to in this Act in respect of its ship.

(3) Where proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings shall be terminated.

(4) Where the costs of The Authority incurred in respect of proceedings suspended under subsection (2) have been paid, any money paid or security given under section 30 (2) (c) shall be released.

## **Offences**

32 (1) It shall be the duty of the owner and master of the ship to comply with, and ensure compliance with the provisions of this Act.

(2) It shall be the duty of any person upon whom an obligation is placed by or under this Act to comply or ensure compliance with that obligation.

(3) Where a person specified in subsection (1) or (2) contravenes the respective subsection that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding 16,000 Penalty units.

(4) It shall be a defence for a person charged under subsection (1) or (2) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) Where an offence under this section is committed, or would have been committed save for the operation of subsection (4), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

## **Protection of Government and public officers**

33 No suit shall be maintained against the Government, the Authority, or any public officer or other person appointed or authorised to perform any function under this Act in respect of anything done or omitted to be done by him in good faith in the exercise or performance of any power, authority or duty conferred or imposed on him under this Act.

## Power to make regulations and orders

34 (1) The Minister may make regulations and orders for:

- a. the further implementation of the Convention and subsequent amendments thereto;
- b. for the implementation and administration of this Act;
- c. for the purpose of prescribing fees and other payments;
- d. Ballast water management and control requirements for Ships;
- e. Ballast Water Exchange;
- f. Sediment Management for Ships;
- g. Special requirements in certain areas;
- h. Standards for Ballast Water Management; and
- i. Survey and Certification requirements for Ballast Water Management.

35) (1) In this Act –

“Administration” means the maritime administration or the authorised Agency of the Government under whose authority the ship is operating.

“Annex” means the Annex to the Convention;

“Ballast Water” means water with its suspended matter taken on board a ship to control trim, list, draught, stability or stresses of the ship;

“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 ships Ballast Water and Sediments;

“Certificate” means the International Ballast Water Management Certificate specified in the Convention and this Act;

“Company” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code;

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

“Ghanaian waters” means any waters in which Ghana has jurisdiction in respect of the protection and preservation of the marine environment under international law;

“Ghana’s maritime jurisdiction” means the jurisdiction exercisable by Ghana in the area where Ghana has jurisdiction in respect of the protection and preservation of the marine environment under international law



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

“FSO” means a floating storage and offloading unit;

“FSU” means Floating storage unit;

“Gross tonnage” means the gross tonnage calculated in accordance with the the Ghana Shipping Act 2003, Act 645 and the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969 as amended, or any successor Convention;

“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;

“IMO” means the International Maritime Organization;

“IMO Guidelines”

“Minister” means the Minister responsible for Transport

“Organization” means the International Maritime Organization;

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

“Port authority” means any person in charge of or managing a port;

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

“Ship” means a vessel of any type whatsoever operating in the aquatic environment and includes submersibles, floating craft, floating platforms, FSUs and FPSOs.

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

“Terminal operator” means a person having the management of a terminal in Ghana

(2) Any reference in this Act to an IMO Guideline is a reference to it as amended or replaced for the time being.

# SCHEDULE 1

## BALLAST WATER RECORD BOOK

For Ghanaian ships the ballast water record book shall be kept in accordance with the Convention, this Act and any Regulations made hereunder.

For foreign ships, entries shall be made in the Ballast Water record book or in the deck log book in accordance with the following requirements:

1. The Ballast Water record book shall contain the information specified in the Convention and this Act.
2. The entries in the Ballast Water record book shall be in a working language of the ship. If that language is not English, the entries shall contain a translation into English.
3. In the event of the discharge of Ballast Water to a reception facility or in the event of other accidental or exceptional discharge of Ballast Water, an entry shall be made in the Ballast Water record book describing the circumstances of, and the reason for, the discharge.
4. Each operation concerning Ballast Water shall be fully recorded without delay in the Ballast Water record book. Each entry shall be signed by the officer in charge of the operation concerned and each completed page shall be signed by the master.
5. When a ship is required to conduct Ballast Water exchange and does not do so in accordance with this Act, the reasons shall be entered in the Ballast Water record book.
6. Except on unmanned ships under tow, log books shall be safe-kept on board so as to be readily available for inspection at all reasonable times. Ballast Water record book entries shall be maintained on board the ship for a minimum period of two years after the last entry has been made and thereafter in the company's control for a minimum period of three years. If the ship is sold, the ship's owner (the seller) shall retain the log books ashore.
7. Entries in the Ballast Water record book shall be made on each of the following occasions:

When Ballast Water is taken on board:

Estimated volume discharged in cubic metres plus remaining volume in cubic metres

Whether approved Ballast Water Management plan had been implemented prior to discharge

Signature of the officer in charge of the operation

When Ballast Water is discharged to a reception facility:

Date, time, and location of uptake

Date, time, and location of discharge

Port or facility, estimated volume discharged or taken up, in cubic metres

Whether approved Ballast Water Management plan had been implemented prior to discharge

Signature of the officer in charge of the operation

Accidental or other exceptional uptake or discharges of Ballast Water:

Date and time of occurrence

Port or position of the ship at time of occurrence

Estimated volume of Ballast Water discharged

Circumstances of uptake, discharge, escape or loss, the reason therefore and general remarks

Whether approved Ballast Water Management plan had been implemented prior to discharge

Signature of the officer in charge of the operation

\*The volume of Ballast Water onboard should be estimated in cubic metres. The Ballast Water record book contains many references to estimated volume of Ballast Water. It is recognized that the accuracy of estimating volumes of ballast is left to interpretation.

**FORM OF BALLAST WATER RECORD BOOK  
INTERNATIONAL CONVENTION FOR THE CONTROL AND  
MANAGEMENT OF SHIPS' BALLAST WATER AND SEDIMENTS**

Period: From ..... to.....

Name of Ship.....

IMO number.....

Gross tonnage.....

Flag.....

Total Ballast Water capacity (in cubic metres) .....

Diagram of ship indicating ballast tanks

Date, time and location port or facility of discharge (port or lat/long)

Additional operational procedure and general remarks may be entered here:

## **BALLAST WATER MANAGEMENT (SEDIMENT RECEPTION FACILITIES) REGULATIONS, 2010**

IN EXERCISE of the powers conferred on the Minister responsible for Transport under section 34 of the Ballast Water Management Act, 2010 these Regulations are made this ..... day of .....2010.

### **Application**

1. These Regulations apply, as appropriate, to any port or terminal within Ghana's maritime jurisdiction where cleaning or repair of ballast tanks occurs, designated by the Minister and to any Ghanaian ship or other ship while within those areas.

### **Requirement to provide adequate port Sediment reception facilities**

2. (1) Every port authority in respect of a port, or terminal operator in respect of a terminal, to which these Regulations apply shall provide adequate facilities for the reception of Sediment from ships using the port or terminal.  
(2) In assessing the adequacy of the Sediment reception facilities provided in its port or terminal the relevant port authority or terminal operator shall have regard to -
  - (a) the IMO Guidelines and the IMO Manual ; and
  - (b) any Sediment management plan approved in relation to a port or terminal pursuant to regulation 10 or prepared by the Authority pursuant to regulation 11.

### **Powers of port authorities and terminal authorities**

3. For the purposes of regulation 2 the powers of a port authority or terminal operator to provide Sediment reception facilities shall include power to join with any other person in providing them, and references in these Regulations to the provision of such reception facilities by a port authority or terminal operator shall be construed accordingly; and any such power shall also include power to arrange for the provision of such reception facilities by any other person.

### **Direction to provide adequate port Sediment reception facilities**

4. . Where in respect of any port or terminal it appears to the Authority after consultation with the relevant port authority or terminal operator, that -
  - (a) the port or terminal has no Sediment reception facilities for the reception of Sediments from ships; or
  - (b) where the port or terminal has such Sediment reception facilities, those facilities are not adequate,

The Authority may direct the port authority or terminal operator to provide, or arrange for the provision of, such Sediment reception facilities as may be specified in the direction.

### **Use of port Sediment reception facilities**

5. (1) A port authority providing reception facilities, or a person providing such facilities by arrangement with a port authority, or a terminal operator providing reception facilities may make reasonable charges for the use of those facilities, and may impose reasonable conditions in respect of the use thereof.

(2) Any reception facilities provided by, or by arrangement with, a port authority or by a terminal operator shall be open to all ships which in the opinion of the port authority or terminal operator, (as appropriate) are using the port or terminal for a primary purpose other than utilising the reception facilities, on payment of any charges, and subject to compliance with any conditions imposed in accordance with sub-regulation (1).

(3) The master of the ship shall, prior to any discharge, inform in writing the person providing the reception facilities of the quantity and content of any substances to be discharged.

### **Requirement on a port authority to prepare a Sediment management plan**

6. Without prejudice to regulation 2(1), every port authority in respect of a port to which these Regulations apply shall prepare a Sediment management plan with respect to the provision and use of facilities for the reception of Sediments from ships using the port in accordance with the IMO Guidelines.

### **Direction to a terminal operator to prepare a Sediment management plan**

7. The Authority may direct that a terminal operator shall prepare a Sediment management plan with respect to the provision and use of facilities for the reception of Sediments from ships using any terminal operated by the terminal operator which is within a port to which these Regulations apply and is specified in the direction.

### **Sediment management plans to be submitted to The Authority for approval**

8. (1) Any Sediment management plan prepared pursuant to either regulation 8 or a direction made under regulation 7 shall be submitted to the Authority for its approval.

(2) The Authority may either -

- (a) reject the plan submitted; or
- (b) approve the plan with or without modifications.

(3) A plan which has been approved by the Authority pursuant to sub-regulation (2) or prepared by the Authority pursuant to regulation 9 shall be implemented by the port authority or the terminal operator for the port or terminal to which the plan relates.

## **Power of Administration to prepare a Sediment management plan**

9. Where the Authority is satisfied that a person who is required to prepare a Sediment management plan is not taking any steps necessary in connection with the preparation of the plan, The Authority may prepare such a plan.

## **Direction to implement a Sediment management plan**

10. The Authority may direct any port authority or terminal operator to take such steps as are specified for the purposes of securing the implementation of an approved Sediment management plan in respect of the relevant port or terminal.

## **Reporting inadequate facilities**

11. (1) A Master of Ghanaian ships who in the course of any voyage is of the opinion that the Sediment reception facilities in any port, designated pursuant to the Convention, whether in Ghana or elsewhere, are inadequate shall report the matter to the Authority using the form specified in the Schedule.

(2) If a master makes a report of such matters to the authorities in another State concerning the facilities in a port in that State the form in the Schedule shall be used by the master.

## **Offences and Penalties**

12. (1) Any port authority or terminal operator which fails to comply with -

- (a) any requirement of these Regulations in relation to the provision and use of Sediment reception facilities;
- (b) the requirements of regulation 8; or
- (c) any direction given pursuant to these Regulations in relation to the provision of Sediment reception facilities or the preparation or implementation of a Sediment management plan, shall be guilty of an offence and liable on summary conviction to a fine of 4100 penalty units .

(2) Any master who, pursuant to regulation 5, provides information as to the quantity or content of substances which he knows to be false in a material particular or recklessly provides such information which is false in a material particular, shall be guilty of an offence punishable on summary conviction to a fine of penalty of 3,300 penalty units .

(3) Any port authority or terminal operator who provides information required under regulation 10 which he knows to be false in a material particular or recklessly provides such information which is false in a material particular, shall be guilty of an offence punishable on summary conviction to a fine of 3300 penalty units.

13. Interpretation

In these Regulations

"Administration" has the same meaning as in the Act;

"Convention" means the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004;

"Ghanaian waters" means any waters in which Ghana has jurisdiction in respect of the protection and preservation of the marine environment under international law;

"Ghana's maritime jurisdiction" means the jurisdiction exercisable by Ghana in the area where Ghana has jurisdiction in respect of the protection and preservation of the marine environment under international law

“IMO” means the International Maritime Organization;

“IMO Guidelines” means the Guidelines for Sediment Reception Facilities adopted by IMO by Resolution MEPC 152(55) and any amendments thereto or replacements thereof;

“IMO Manual” means the Comprehensive Manual on Port Reception Facilities published by IMO, 1999 edition, and any amendments thereto or replacements thereof;

“port authority” means any person in charge of or managing a port;

“terminal” means a terminal, jetty, pier or mono-buoy within a port;

“terminal operator” means a person having the management of a terminal in Ghana.



**SCHEDULE**

**FORMAT FOR REPORTING  
ALLEGED INADEQUACY OF PORT RECEPTION FACILITIES\***

The master of a ship having encountered difficulties in discharging Sediment to reception facilities should forward the information below, together with any supporting documentation, to the Authority of the flag State and, preferably, to the competent authorities in the port State.

**1. SHIP'S PARTICULARS**

Name of ship:-----

Owner or operator:-----

Distinctive number or letters:-----

IMO No:-----

Gross tonnage:-----

Port of registry:-----

Type of ship:  oil tanker  chemical tanker  ferry  cruise ship  cargo ship  
 bulk carrier  
 other (specify)-----

**2. PORT PARTICULARS**

Country:-----

Name of port or area:-----

Location/Terminal name-----  
(e.g. berth / terminal / jetty)

Name of company operating reception facility (if applicable):  
-----

Unloading port  Loading port  Shipyard

Date of arrival:-----

Date of occurrence:-----

Date of departure:-----

**3. TYPE AND AMOUNT\* OF SEDIMENT FOR DISCHARGE TO FACILITY**

**Nature of Sediment**

Were facilities available?  Yes  No

Costs involved-----

**4. WAS ANY SEDIMENT NOT ACCEPTED BY THE FACILITY?**

-----  
-----  
-----

**5. INADEQUACY OF FACILITIES**

5.1 Remarks on inadequacies

-----  
-----  
-----

5.2 Location of facilities (close to the ship, inconvenient location or ship had to shift berth involving delay)

-----  
-----

5.3 If you experienced a problem, with whom did you discuss this problem or report it to?

-----  
-----

5.4 Did you give prior notification (in accordance with relevant port requirements) about the ship's requirements for reception facilities?  Yes  No

5.5 Did you receive confirmation on the availability of reception facilities on arrival?  Yes  No

**6. ANY ADDITIONAL REMARKS/COMMENTS**

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-----  
-----  
-----

**7. Master's signature----- Date-----**