

Prevention of Pollution of the Sea (Amendment) Bill

Bill No. 20/2017.

Read the first time on 3 April 2017.

A BILL

intituled

An Act to amend the Prevention of Pollution of the Sea Act
(Chapter 243 of the 1999 Revised Edition).

Be it enacted by the President with the advice and consent of the
Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Prevention of Pollution of the Sea (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of long title

2. The long title to the Prevention of Pollution of the Sea Act (called in this Act the principal Act) is amended by deleting the words “and to other international agreements relating to the prevention, reduction and control of pollution of the sea and pollution from ships” and substituting the words “the International Convention for the Control and Management of Ships’ Ballast Water and Sediments 2004, and to other international agreements relating to the protection of the marine environment and to the prevention, reduction and control of pollution of the sea and pollution from ships”.

15 Amendment of section 2

3. Section 2 of the principal Act is amended —

(a) by inserting, immediately after the definition of “Authority” in subsection (1), the following definitions:

20 “ballast tank” means any tank, hold or space used for the carriage of ballast water;

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

25 “ballast water management” means mechanical, physical, chemical, and biological processes, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms and pathogens within ballast water and sediments;

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

“ballast water management system” —

- (a) means any system which processes ballast water such that it meets or exceeds the ballast water performance standard in the Ballast Water Management Convention; and 5
- (b) includes ballast water treatment equipment, all associated control equipment, piping arrangements specified by the manufacturer of the ballast water management system as forming part of the ballast water management system, control and monitoring equipment and sampling facilities; but 10 15
- (c) does not include any of the ship’s ballast water fittings, such as piping, valves and pumps, that would be required to be fitted even if the ballast water management system was not fitted;” 20

(b) by inserting, immediately after the definition of “garbage” in subsection (1), the following definition:

“ “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;” 25 30

(c) by deleting the definition of “reception facilities” in subsection (1) and substituting the following definitions:

““reception facilities” means facilities which enable ships to —

5 (a) discharge or deposit residues and mixtures, which residues and mixtures contain oil or noxious liquid substances; or

(b) discharge sediments;

10 “sediments” means matter settled out of ballast water within a ship;”;

(d) by deleting the definition of “terminal” in subsection (1) and substituting the following definition:

15 ““terminal” means any terminal (including an oil terminal), jetty, pier or mono-buoy and a yard or drydock (including the precincts of the terminal) in which —

(a) vessels are constructed, reconstructed, repaired, refitted, finished or broken up; or

20 (b) ballast tanks of vessels are cleaned or repaired;”;

(e) by deleting the words “or trade effluent” in subsection (2) and substituting the words “, trade effluent, ballast water or sediments”;

25 (f) by deleting subsection (3) and substituting the following subsection:

“(3) Unless the context otherwise requires —

30 (a) a reference in this Act to the discharge of any oil, oily mixture, noxious liquid substance, ballast water or sediments from a ship is a reference to the discharge of the oil, oily mixture, noxious liquid substance,

ballast water or sediments from the ship at any place in or outside Singapore; and

(b) a reference in this Act to the discharge of any oil, oily mixture, noxious liquid substance or sediments from a place on land is a reference to the discharge of the oil, oily mixture, noxious liquid substance or sediments from the place at any place in or outside Singapore.”; and 5

(g) by inserting, immediately after the word “Convention” in subsection (4), the words “, the Ballast Water Management Convention”. 10

Amendment of section 4

4. Section 4 of the principal Act is amended by deleting the section heading and substituting the following section heading: 15

“Special defences to section 3”.

Amendment of section 5

5. Section 5 of the principal Act is amended —

(a) by deleting “\$10,000” and substituting “\$20,000”; and

(b) by deleting the words “2 years” and substituting the words “6 months”. 20

New section 5A

6. The principal Act is amended by inserting, immediately after section 5, the following section:

“Prohibition of discharge of sediments from land or apparatus 25

5A.—(1) If any sediments are discharged into Singapore waters from any place on land —

(a) the occupier of that place; or

(b) if the discharge is caused by the act of another person who is in that place without the permission (express or implied) of the occupier, that person,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) If any sediments are discharged into Singapore waters from any apparatus used for transferring sediments from or to any ship (whether to or from a place on land or to or from another ship), the person in charge of the apparatus shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.”.

Amendment of section 6

7. Section 6(1) of the principal Act is amended —

(a) by deleting “\$10,000” and substituting “\$20,000”; and

(b) by deleting the words “2 years” and substituting the words “6 months”.

Amendment of section 10

8. Section 10(1) of the principal Act is amended —

(a) by deleting “\$10,000” and substituting “\$20,000”; and

(b) by deleting the words “2 years” and substituting the words “6 months”.

New sections 10A and 10B

9. The principal Act is amended by inserting, immediately after section 10, the following sections:

“Prohibition of discharge of ballast water and sediments from ships

10A.—(1) Subject to subsections (2) and (3) and section 10B, if any discharge of ballast water or sediments occurs from any ship into Singapore waters, or from a Singapore ship into any

part of the sea, the master, the owner and the agent of the ship shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) Subsection (1) does not apply to the discharge of ballast water through ballast water management in accordance with regulations made under section 34. 5

(3) The Authority may, with the approval of the Minister, make regulations to exempt any ship from the operation of subsection (1), either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular areas of the sea. 10

(4) In this section —

“owner”, in relation to a ship, includes any organisation 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; 15 20

“International Safety Management Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention 2002 adopted by the International Maritime Organization and any amendment to the Code which has come into force and has been accepted by the Government. 25

Special defences to section 10A

10B. Where a person is charged with an offence under section 10A(1), it is a defence for the person charged to prove, on a balance of probabilities, that — 30

(a) the uptake or discharge of ballast water or sediments was necessary for the purpose of securing the safety of the ship in an emergency situation or saving life at sea;

(b) the discharge of ballast water or sediments —

(i) was accidental; and

(ii) resulted from damage to the ship or its equipment, other than damage that was caused by the person wilfully or recklessly,

and all reasonable precautions were taken before and after the occurrence of the damage, or the discovery of the occurrence of the damage or discharge, for the purpose of preventing or minimising the discharge;

(c) the uptake or discharge of ballast water or sediments was for the purpose of avoiding or minimising pollution incidents from the ship;

(d) the discharge of ballast water or sediments occurred on the high seas, and comprised the same ballast water and sediments that had been taken up in the high seas; or

(e) the discharge of ballast water or sediments was at the same location where the whole of the discharged ballast water or sediments originated, and the discharged ballast water and sediments had not been mixed with ballast water and sediments from any other location which have not undergone ballast water management.”.

Amendment of section 11

10. Section 11 of the principal Act is amended —

(a) by deleting the word “or” at the end of subsection (7)(a);

(b) by deleting the full-stop at the end of paragraph (b) of subsection (7) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(c) in relation to the provision of reception facilities for sediments, used by ships carrying such sediments, including such ships when undergoing cleaning or

repairing of ballast water tanks or breaking up.”;

(c) by deleting the words “or sewage” in subsection (8) and substituting the words “, sewage, ballast water or sediments”; and 5

(d) by deleting “\$10,000” in subsection (8)(c) and substituting “\$20,000”.

New section 13A

11. The principal Act is amended by inserting, immediately after section 13, the following section: 10

“Regulations requiring keeping of ballast water record books

13A.—(1) The Authority may, with the approval of the Minister, make regulations requiring ballast water record books to be carried in all Singapore ships and in all ships in Singapore waters, and requiring the master of any such ship to record in the ballast water record book carried by it — 15

(a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed: 20

(i) the intake of ballast water;

(ii) the circulation or treatment of ballast water for ballast water management purposes;

(iii) the discharge of ballast water into the sea;

(iv) the discharge of ballast water to a facility for the reception of ballast water; 25

(v) the accidental or other exceptional uptake or discharge of ballast water;

(vi) any failure or malfunction of the ballast water management system of the ship; 30

(vii) the taking of any additional measures to prevent, reduce, or eliminate the transfer of harmful

aquatic organisms and pathogens through the ship's ballast water and sediments, in accordance with regulations made under this Act;

5 (viii) the conduct of any other ballast water management operational procedures;

(b) any event of discharge of ballast water or sediments by a ship that is exempt from the operation of section 10A(1) by regulations made under
10 section 10A(3);

(c) any event of discharge of ballast water mentioned in section 10A(2); and

(d) any event of discharge of ballast water or sediments as is mentioned in section 10B.

15 (2) Regulations made under this section requiring the carrying of ballast water record books or the keeping of records may —

(a) prescribe the form of the ballast water record books or records and the nature of the entries to be made in them;

20 (b) require the person keeping the ballast water record books or records to retain them for a prescribed period;

(c) require the person mentioned in paragraph (b), at the end of the prescribed period, to transmit the ballast water record books or records to a place or person
25 determined by the regulations; and

(d) provide, after the transmission of the ballast water record books or records to the place or person mentioned in paragraph (c), for their custody (for
30 such period as may be prescribed) and for their subsequent disposal.”.

Amendment of section 14

12. Section 14 of the principal Act is amended —

- (a) by deleting the words “or cargo record book as is required under section 12 or 13” in subsection (1) and substituting the words “, cargo record book or ballast water record book as is required under section 12, 13 or 13A”; 5
- (b) by deleting the words “or 13” in subsection (2) and substituting the words “, 13 or 13A”;
- (c) by deleting the words “or cargo record book carried or any record kept under section 12 or 13” in subsection (3) and substituting the words “, cargo record book or ballast water record book carried or any record kept under section 12, 13 or 13A”; 10
- (d) by deleting paragraph (a) of subsection (4) and substituting the following paragraph: 15
 - “(a) any oil record book, cargo record book or ballast water record book carried or any record kept under any regulations made under section 12, 13 or 13A is admissible as evidence of the facts stated in it;”;
 20
- (e) by deleting the words “or cargo record book” in subsection (4)(b) and substituting the words “, cargo record book or ballast water record book”; and
- (f) by deleting the words “or cargo record book carried or a record kept under section 12 or 13” in subsection (4)(c) and substituting the words “, cargo record book or ballast water record book carried or a record kept under section 12, 13 or 13A”. 25

Amendment of section 16

13. Section 16 of the principal Act is amended —

5 (a) by deleting the words “or a mixture containing such substance occurs from a place on land or an apparatus used for transferring oil or that substance” and substituting the words “, sediments or a mixture containing oil, oily mixture, noxious liquid substance or sediments occurs from a place on land or an apparatus used for transferring oil, oily mixture, noxious liquid substance, sediments or that mixture”; and

10 (b) by deleting the section heading and substituting the following section heading:

“Duty to report discharge of oil, etc., from land or apparatus”.

15 **Amendment of section 22**

14. Section 22 of the principal Act is amended —

(a) by inserting, immediately after the word “Convention” in subsection (1)(c), the words “, or the Ballast Water Management Convention,”;

20 (b) by inserting, immediately after the word “Convention” in subsection (1)(d), the words “or the Ballast Water Management Convention”; and

(c) by deleting paragraph (e) of subsection (2) and substituting the following paragraph:

25 “(e) open, or require the master of a ship to cause to be opened, any hold, bunker tank, ballast tank, compartment or receptacle in or on board the ship and inspect the contents of any such hold, bunker tank, ballast tank, compartment or receptacle in
30 or on board the ship;”.

Amendment of section 27

15. Section 27 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) The Government may, by its officers, employees, agents or contractors, enter upon any land adjoining the sea or foreshore —

(a) for the purpose of removing or eliminating any oil, oily mixture, refuse, garbage, waste matter, plastics, marine pollutant in packaged form, noxious liquid substance, trade effluent or sediments from Singapore waters; and

(b) to take steps to minimise or mitigate damage to public health or welfare that may be caused by or result from any of the substances mentioned in paragraph (a).”.

Amendment of section 34

16. Section 34 of the principal Act is amended —

(a) by inserting, immediately after paragraph (b) of subsection (1), the following paragraph:

“(ba) giving effect to any provision of the Ballast Water Management Convention which has not been given effect to in this Act;”;

(b) by deleting the words “or (b)” in subsection (1)(c) and substituting the words “, (b) or (ba)”;

(c) by deleting the words “paragraphs (a), (b) and (c)” in subsection (1)(d) and substituting the words “paragraph (a), (b), (ba) or (c)”;

(d) by inserting, immediately after the word “necessary” in subsection (1)(e), the words “for the protection of the marine environment and”;

(e) by inserting, immediately after paragraph (d) of subsection (2), the following paragraph:

“(da) provide for the nomination and registration of surveyors, and for the recognition of organisations to conduct surveys, for the purposes of the Ballast Water Management Convention, and for the duties and powers of such surveyors and organisations;”;

(f) by deleting the words “paragraph (g)” in subsection (2)(g) and substituting the words “paragraph (f)”; and

(g) by inserting, immediately after the words “this section” in subsection (3), the words “or any other section”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Prevention of Pollution of the Sea Act (Cap. 243) to enable Singapore to give effect to the International Convention for the Control and Management of Ships’ Ballast Water and Sediments 2004 (the Ballast Water Management Convention).

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title to include the Ballast Water Management Convention.

Clause 3 amends section 2 (on interpretation) —

(a) to insert in subsection (1) definitions for the terms “ballast tank”, “ballast water”, “ballast water management”, “Ballast Water Management Convention”, “ballast water management system”, “harmful aquatic organisms and pathogens” and “sediments”;

(b) to replace the definitions of “reception facilities” and “terminal”;

(c) to amend subsections (2) and (3) to include “ballast water” and “sediments”; and

(d) to amend subsection (4) to include the Ballast Water Management Convention.

Clause 4 amends the section heading of section 4 (on special defences) to make it clear that the special defences in that section apply with respect to the offence under section 3.

Clause 5 amends section 5 (on person throwing pollutants into Singapore waters) to vary the penalties for an offence under that section.

Clause 6 inserts a new section 5A. The new section prohibits the discharge of sediments into Singapore waters from any place on land or from any apparatus used for transferring sediments from or to any ship.

Clause 7 amends section 6 (on prohibition of discharge of refuse, garbage, wastes, effluents, plastics and dangerous pollutants from ships) to vary the penalties for an offence under subsection (1).

Clause 8 amends section 10 (on prohibition of discharge of noxious liquid substances from ships) to vary the penalties for an offence under subsection (1).

Clause 9 inserts new sections 10A and 10B.

The new section 10A prohibits the discharge of ballast water or sediments from any ship into Singapore waters, or from a Singapore ship into any part of the sea. However, the prohibition does not apply to the discharge of ballast water through ballast water management in accordance with regulations made under section 34. Regulations may also be made to exempt any ship from the operation of the provision.

The new section 10B sets out the special defences that a person charged with an offence under the new section 10A(1) may prove on a balance of probabilities.

Clause 10 amends section 11 (on reception facilities) —

- (a) to provide that certain provisions of that section only apply if the port or a terminal managed by a terminal operator is, in relation to the provision of reception facilities for sediments, used by ships carrying such sediments, including ships when undergoing cleaning or repairing of ballast water tanks or breaking up;
- (b) to provide that regulations may be made in respect of every matter relating to the provision of reception facilities and other facilities for ships to deposit ballast water and sediments; and
- (c) to increase the fine that may be prescribed for a contravention of regulations made under subsection (8).

Clause 11 inserts a new section 13A which enables regulations to be made to require ballast water record books to be carried in all Singapore ships and in all ships in Singapore waters, to provide for the matters that must be recorded, the form of the ballast water record books and the nature of the entries, as well as the retention and custody of the ballast water record books.

Clause 12 amends section 14 (on failure to carry record books and evidence) to provide that the provisions of that section apply to the ballast water record book required to be kept under the new section 13A (inserted by clause 11).

Clause 13 amends section 16 (on duty to report discharges of oil, oily mixture and substances from land or apparatus) to provide that the duty to report under that section applies to the actual or probable discharge into Singapore waters of sediments.

Clause 14 amends section 22 (on powers of inspectors) —

- (a) to provide that the powers conferred by that section may be exercised by an inspector for the purposes of ascertaining whether a provision of the Ballast Water Management Convention that is applicable in relation to a ship other than a Singapore ship has been complied with in respect of that ship; or whether a provision of a law of a country other than Singapore giving effect to the Convention, being a provision that is applicable in relation to a ship other than a Singapore ship, has been complied with in respect of that ship; and
- (b) to provide that an inspector may open, or require the master of a ship to cause to be opened, any hold, bunker tank, ballast tank, compartment or receptacle in or on board the ship and inspect the contents of any such hold, bunker tank, ballast tank, compartment or receptacle.

Clause 15 amends section 27 (on power to enter on lands) to provide that the Government may, by its officers, employees, agents or contractors, enter upon any land adjoining the sea or foreshore —

- (a) for the purpose of removing or eliminating any oil, oily mixture, refuse, garbage, waste matter, plastics, marine pollutant in packaged form, noxious liquid substance, trade effluent or sediments from Singapore waters; and
- (b) to take steps to minimise or mitigate damage to public health or welfare that may be caused by or result from any of the substances mentioned in paragraph (a).

Clause 16 amends section 34 (on regulations) —

- (a) to provide (in subsection (1)) that the regulations that may be made under that section include regulations for the purpose of giving effect to any provision of the Ballast Water Management Convention which has not been given effect to in the Act;
- (b) to provide (in subsection (2)) that regulations may provide for the nomination and registration of surveyors, and for the recognition of organisations to conduct surveys, for the purposes of the Ballast Water Management Convention, and for the duties and powers of such surveyors and organisations;

- (c) to provide that the general provisions relating to regulations in subsection (3) apply not only to regulations made under section 34, but also to regulations made under any other section of the Act; and
- (d) to make other consequential and technical amendments.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
