

A BILL

ENTITLED

**AN ACT to to Give effect to the provisions of the International
Convention for the Control and Management of Ships' Ballast
Water and Sediments, 2004.**

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and
with the advice and consent of the Senate and House of
Representatives of Jamaica, and by the authority of the same, as
follows:—

PART I—*Preliminary*

1. This Act may be cited as the Ballast Water Management Act,
2018.

Short title
and
construction.

Interpreta-
tion.

2. In this Act—

- “Annex” means the Annex to the Convention;
- “Authority” means the Maritime Authority established under section 6 of the *Shipping Act*;
- “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 any 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 issued under section 21;
- “Company” means the owner of the ship or any other organization or person such as the manager in the bareboat charter who assumes the responsibility for the operation of the ship from the owner of the ship and on assuming such responsibility agrees to take over all the duties and responsibilities imposed by the *International Safety Management Code*;
- “competent Authority” means the governmental authority designated by a Party to be responsible for the implementation of the Convention in that State;
- “Convention” means the *International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004* and adopted on the 13th day of February 2004, at London and any amendments thereto as are in force in relation to Jamaica;
- “Director” means the Director General of the Maritime Authority, appointed under section 10 of the *Shipping Act*, and includes any person lawfully acting under the instructions of or on behalf of the Director General;

“foreign ship” means a ship that is not a Jamaican ship;

“FPSOs” means Floating Production Storage and Offloading Units;

“FSUs” means Floating Storage Units;

“gross tonnage” means the gross tonnage calculated in accordance with the *Shipping (Tonnage) Regulations, 2007*;

“Guidelines” means the Guidelines for the uniform implementation of the Ballast Water Management Convention published by the Organization, including any amendment thereto, or its replacement for the time being;

“harmful aquatic organisms and pathogens” means aquatic organisms or pathogens which, if introduced into the sea, estuaries or 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;

“Inspector” includes—

- (a) a person appointed as an Inspector pursuant to section 315 of the *Shipping Act*;
- (b) a surveyor;

“Jamaican ship” has the meaning assigned to it under the *Shipping Act*;

“Jamaican waters” has the meaning assigned to it under the *Shipping Act*;

“Organization” means International Maritime Organization;

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

“reception facilities” mean a facility that is capable of receiving, storing, processing or transshipping ballast water or sediment, in a manner that reduces the likelihood of harmful aquatic organisms or pathogens being introduced into Jamaican waters;

“Record Book” means the Ballast Water Record Book kept under section 13;

“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, submersible, floating crafting, floating platforms, FSUs and FPSOs;

“survey certificate” means a certificate issued pursuant to section 21;

“surveyor” means a person appointed as such under section 12 of the *Shipping Act*.

Application
of Act.

3.—(1) This Act shall apply to—

- (a) Jamaican ships; and
- (b) foreign ships operating in Jamaican waters.

(2) Except as otherwise expressly provided, this Act shall not apply to—

- (a) a ship not designed or constructed to carry ballast water;
- (b) a Jamaican ship operating only in Jamaican waters, unless determined by the Director that the discharge of ballast water from the ship, would impair or damage the environment, human health, property or resources, or those of adjacent States or other States;
- (c) a Jamaican ship operating in the waters under the jurisdiction of another Party to the Convention, subject to the authorization of the Competent Authority of the other Party for such exclusion;
- (d) ships which operate only in Jamaican waters and on the high seas;
- (e) a Jamaican Government ship operated for non-commercial purposes, or to ships under the operational control of the Jamaica Defence Force; and

- (f) a ship containing permanent ballast water sealed in tanks that are not subject to discharge.

PART II—*Control and Management of Ships' Ballast Water and Sediments*

4.—(1) An owner or master of a ship shall only conduct ballast water management in accordance with the provisions of this Part. Ballast water management.

(2) The owner or master of a ship shall complete a ballast water management report in the form prescribed by the Director.

(3) The ballast water management report referred to in subsection (2), shall be made available for inspection, when a Jamaican ship or foreign ship has entered a port in Jamaica.

5.—(1) The owner or master of a ship shall where applicable comply with the requirements under this section for ballast water management for ships. Ballast water management for ships constructed before 2009 etc.

(2) The owner or master of a ship constructed before 2009—

- (a) with a ballast water capacity of between 1,500 and 5,000 cubic metres inclusive, shall conduct ballast water management in accordance with Regulation B-3 of the Annex;
- (b) with a ballast water capacity of less than 1,500 or greater than 5,000 cubic metres, shall conduct ballast water management in accordance with Regulation B-3 of the Annex.

(3) An owner or master of a ship constructed in 2009, with a ballast water capacity of no less than 5,000 cubic metres, shall conduct ballast water management in accordance with Regulation B-3 of the Annex.

(4) The owner or master of a ship constructed in or after 2009, but before 2012, and a ship constructed after 2012, which has a ballast water capacity of no less than 5,000 cubic metres, shall conduct ballast water management in accordance with Regulation B-3 of the Annex.

(5) Notwithstanding subsections (1) to (4), the Authority may approve other methods of ballast water management that are of equivalent standard, provided that such methods ensure at least the same

level of protection prescribed under this section to the environment, human health, property or resources.

Exceptions.

6.—(1) Sections 5 and 10 shall not apply in circumstances where—

- (a) the uptake or discharge of ballast water and sediments is necessary for the purpose of ensuring the safety of a ship in an emergency situation or for saving life at sea; or
- (b) there is an accidental discharge or ingress of ballast water and sediments resulting from damage to the ship or to its equipment—
 - (i) where all reasonable precautions have been taken before and after the occurrence of the damage or discovery of the damage or discharge, for the purpose of preventing or minimizing the discharge; and
 - (ii) unless the owner, Company or officer in charge of the ship willfully or recklessly caused the damage;
- (c) the uptake and discharge of ballast water and sediments is necessary for the purpose of avoiding or minimizing pollution incidents from the ship;
- (d) the uptake and subsequent discharge of the same ballast water and sediments is on the high seas; or
- (e) the discharge of ballast water and sediments from a ship occur at the same location, where the whole of that ballast water and those sediments originated, and no mixing with unmanaged ballast water and sediments from other areas has occurred.

(2) In the case of a ship where the mixing of ballast water has occurred under paragraph (e), the ballast water taken from other areas shall be subject to ballast water management, in accordance with this Part.

7.—(1) Subject to subsections (2) and (3), the Director may grant Exemptions. an exemption in relation to Jamaican waters from any requirements under sections 5 and 10—

- (a) in relation to a ship on a voyage or voyages between ports or locations;
- (b) in relation to a ship which operates exclusively between specified ports or location is for a period not exceeding five years;
- (c) in relation to a ship, the operations of which do not allow for mixing ballast water and sediments, other than between the port or locations specified in paragraph (a), for which an exemption is granted; and
- (d) based on the guidelines or risk assessment developed by the Organization.

(2) The Director shall not grant an exemption under this section, where it is determined that granting such an exemption is likely to impair or damage the environment, human health, property or resources.

(3) An exemption granted under subsection (1), shall not take effect—

- (a) before the Director communicates the grant of the exemption to the Organization; and
- (b) circulates the relevant information to the Parties.

(4) An exemption granted under this section shall be recorded in the Record Book kept under section 13.

8.—(1) Every owner or master of a ship shall in relation to their ship, implement a ballast water management plan approved by the Director, for the management of ballast water and sediments. Ballast water management plan.

(2) The ballast water management plan referred to in subsection (1), shall be written in the English Language and shall include—

- (a) detailed safety procedures for the ship and crew associated with ballast water management;

- (b) a detailed description of the actions to be taken to implement the ballast water management requirements and supplemental ballast water management practices in accordance with this Act;
- (c) the procedures for disposing of sediments at sea and to shore;
- (d) the procedures for coordinating shipboard ballast water management;
- (e) information as to the designated officer on board the ship in charge of implementing the ballast water management plan; and
- (f) the reporting requirements for ships under this Act.

(3) The ballast water management plan referred to in subsection (1) shall be specific to and kept on board the ship.

Owner or master of ship shall sensitize crew to ballast water management plan.

9. The owner or master of a ship, shall ensure that the ship's officers and crew are sensitized to the ballast water management plan approved under section 8.

Additional measures for ballast water management.

10.—(1) The Director may on his or her own or jointly with other Parties, determine that in addition to those measures specified in sections 11, 13, 15, 16, and in accordance with Section B of the Annex, that a ship adopt additional measures to prevent, reduce or eliminate the transfer of harmful aquatic organisms and pathogens.

(2) Where the Director intends to implement the additional measures referred to in subsection (1) the Director shall—

- (a) take into account the Guidelines developed by the Organization;
- (b) communicate to the Organization, the Director's intention to establish the additional measures to the Organization, six months prior to the implementation of the measures, and such communication shall include—
 - (i) the precise coordinates where the additional measures will be applied;

- (ii) the reasons for and benefits of the additional measures;
- (iii) a description of the additional measures;
- (iv) any arrangements that may be provided to facilitate ships' compliance with the additional measures; and
- (v) approval of the additional measures from the Organization.

(3) The Director shall communicate the additional measures under subsection (2)(b), six months prior to implementation of the additional measures, unless there is an emergency or epidemic situation.

(4) Except in cases of emergencies, the Director shall, prior to implementing the measures under this section, cause to be made available as it relates to those measures, all appropriate services, including a notification to mariners of areas and alternative routes or ports.

(5) The measures adopted by the Director shall not compromise the safety and security of the ship.

(6) The Director may waive the measures for such period as the circumstances may determine.

11.—(1) The owner or master of a ship shall in conducting ballast water exchange take into account the Guidelines developed by the Organization and—

Standards for ballast water exchange.

- (a) whenever possible, conduct such ballast water exchange at least 200 nautical miles from the nearest land and, in water at least 200 metres in depth;
- (b) in cases where the ship is unable to conduct ballast water exchange in accordance with paragraph (a), such ballast water exchange shall be conducted as far from the nearest land as possible; and
- (c) notwithstanding paragraph (b), in all cases where ballast water exchange does not meet the standard set out in Regulations D-1 and D-2 of the Annex, the ballast water exchange, shall

be conducted at least 50 nautical miles from the nearest land, and in water at least 200 metres in depth.

(2) In cases where the minimum distance under subsection (1) from the nearest land or depth, required under the Convention for the conduct of ballast water exchange cannot be achieved, the Director may, after consultation with adjacent States or other States as appropriate, designate areas within Jamaican waters, where the ship may conduct such exchange.

(3) The owner or master of a ship shall not be required to deviate from the intended voyage, or delay the voyage, in order to comply with any requirement under subsection (1).

(4) Where a ship is undergoing ballast water exchange it shall not be a requirement for the owner or master to comply with subsections (1) or (2), where the owner or master of the ship reasonably decides that such exchange would threaten the safety or stability of the ship, its crew or its passengers due to—

- (a) adverse weather;
- (b) ship design or stress;
- (c) equipment failure of the ship; or
- (d) any other extraordinary conditions as the case may determine.

(5) Where under subsection (4) a ship is not required to undergo ballast water exchange, the owner or master of the ship shall provide reasons, and such reasons shall be entered in the Record Book kept under section 13.

Warnings concerning ballast water uptake in certain areas.

12.—(1) The Director shall notify in writing, the Organization and any other affected States and mariners of areas in Jamaican waters, where owners or masters of ships are prohibited from conducting the uptake of ballast water, due to known conditions.

(2) The notification under subsection (1) 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.

(3) In addition to the notice under subsection (2), a warning prohibiting the uptake of ballast water may be issued for areas and certain information as it relates to—

- (a) areas known to contain outbreaks, infestations, or populations of harmful aquatic organisms and pathogens;
- (b) coordinates of—
 - (i) the affected area or areas;
 - (ii) alternative area or areas for the uptake of ballast water;
- (c) advice to owners or masters of ships that need to uptake ballast water and the arrangements for alternate supplies;
- (d) areas near sewage outfalls;
- (e) areas where tidal flushing is poor or times during which a tidal stream is known to be more turbid; and
- (f) the period the warning is likely to remain in effect.

(4) The Director shall issue a notice to mariners, the Organization and any potentially affected coastal States when a warning issued under subsection (3), is no longer applicable.

13.—(1) Every owner or master of a ship, shall keep on board the ship, a Record Book to be known as the Ballast Water Record Book in the form set out in Form 1 of the Schedule.

Owner or master shall keep Record Book. Schedule.

(2) The Record Book referred to in subsection (1) shall be kept readily available for inspection at all times and, in the case of an unmanned ship under tow, be kept on the towing ship.

(3) The Record Book shall be maintained on board the ship for not less than two years after the last entry has been made, and thereafter, shall remain in the Company's control for a further period of not less than three years.

14.—(1) In the event of the discharge of ballast water pursuant to sections 6 and 7, or in the event of other accidental or exceptional

Entries in the Record Book.

discharge of ballast water not otherwise exempted by this Act, an entry of such discharge shall be made in the Record Book, describing the circumstances of, and the reason for, the discharge of the ballast water.

(2) The owner or master of the ship shall after each operation concerning the discharge of ballast water, cause an entry of the operation to be entered in the Record Book in the English Language without delay and—

- (a) each entry so made shall be signed by the officer in charge of the operation; and
- (b) each completed page shall be signed by the Master.

Sediment
management.

15. The owner or master of a ship shall cause to be removed and disposed of, sediments from spaces designated to carry ballast water, in accordance with an approved ballast water management plan under section 8.

Sediment
management
for ships
constructed
before 2009.

16. The owner or master of a ship constructed before 2009, and to which this Act applies, shall ensure that the ship was designed and constructed to—

- (a) minimize the uptake and undesirable entrapment of sediments;
- (b) facilitate renewal of sediments; and
- (c) provide for a safe access to allow for sediment removal and sampling,

as set out under the Guidelines developed by the Organization.

Authority
shall
designate
ports for
reception of
sediments.

17.—(1) The Authority shall designate ports or terminals for the purpose of reception of sediments in accordance with Part III.

(2) Where a designation is made under subsection (1), the Authority shall request the operators of ports or terminals to provide adequate facilities for the reception of sediments from ships.

(3) The operator of a port or terminal referred to under subsection (2) shall take in account the Guidelines developed by the Orga-

nization in providing adequate facilities for the reception of sediments from ships.

PART III—*Surveyors, Surveys and Survey Certificates*

18. A surveyor shall—

Surveyors.

- (a) carry out such surveys under sections 19 and 20;
- (b) request the owner or master of the ship to cause any necessary action to be taken after the survey of a ship under section 19 or 20; and
- (c) adhere to such other guidelines as stipulated by the Director, in pursuance of the requirements under this Act.

19.—(1) A Jamaican ship shall be subject to the following surveys—

Surveys of ships.

- (a) an initial survey before the ship is put in service or before the certificate under section 20 or 21, is issued for the first time;
- (b) a renewal survey at intervals specified by the Authority, however such interval for a survey shall not exceed five years, except where section 26, 27, 28 or 29 applies;
- (c) an intermediate survey within three months before or after the second Anniversary date or within three months before or after the third Anniversary date of the certificate, which shall take the place of one of the annual surveys specified in paragraph (d);
- (d) an annual survey within three months before or after each anniversary date, including a general inspection of the structure, any equipment, systems, fittings arrangements and material or processes associated with the Ballast Water Management Plan under section 8;
- (e) an additional survey either general or partial, according to the circumstances, shall be made after any change, replacement, or significant repair of the structure equipment, systems, fittings, arrangements and material, is effected to achieve full compliance with this Act.

(2) A survey conducted under paragraph (a) or (b), shall be to verify that the ballast water management plan under section 8 and any associated structure, equipment, systems, fittings arrangements and material or process, is effected to achieve full compliance with this Act.

(3) A survey conducted under paragraph 1(c) shall be to ensure that the equipment, associated systems and processes for ballast water management are in good working order, so as to achieve full compliance with this Act.

(4) An annual survey conducted under paragraph (d), shall be to ensure that the structure, equipment, systems, fittings, arrangement and material or processes associated with the ballast water management plan under section 8, have been maintained to ensure that the ship in all respects remains fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources.

(5) Where a survey is conducted under paragraph (e), the survey shall be to ensure that any such change, replacement or significant repair has been effectively made, so as to achieve full compliance with this Act.

(6) A surveyor shall obtain the approval of the Director before undertaking any replacement under subsection (5).

(7) An additional survey which is either general or partial, as the case may be, shall be conducted after a change, replacement or significant repair has been undertaken to achieve full compliance with this Act.

(8) The Certificate in relation to a ship surveyed under subsections (1)(c), (d) and (e) shall be endorsed on the certificate issued under this section and section 20.

Party may
request a ship
be surveyed.

20.—(1) Subject to subsection (4), the Authority may at the request of a Party, cause a ship that is in a Jamaican port or terminal to be surveyed.

(2) The Authority may authorize the issue of a certificate under subsection (1), where the Authority is satisfied that the provisions of this Act, have been complied with.

(3) A certificate issued under subsection (2) shall include a statement to the effect that the certificate has been issued at the request of the Party in relation to the ship.

(4) This section shall apply to ships which fly the flag of the requesting State.

21. The Director shall issue or endorse in respect of a ship surveyed under section 19 or 20, a certificate in the form set out as Form 2 of the Schedule. Issuing of certificates. Schedule.

22. A certificate issued under section 20 or 21, shall cease to be valid— Certificates shall cease to be valid.

- (a) if the structure, equipment, systems, fittings, arrangements or material necessary to comply fully with the provisions of this Act is changed, replaced or significantly repaired and the Certificate is not endorsed in accordance with this Part;
- (b) upon transfer of a Jamaican ship to the flag of another State;
- (c) if the relevant surveys are not completed within the periods specified under section 19(1); or
- (d) if the Certificate is not endorsed in accordance with section 19(1).

23.—(1) Where the surveyor determines that—

- (a) a Jamaican ship's ballast water management does not conform with the particulars on the certificate issued under section 20 or 21; or
 - (b) a Jamaican ship is not fit to proceed to sea without presenting a threat to the environment, human health, property or resource, such surveyor shall take corrective action to bring the ship into compliance with this Act.
- Surveyors may take corrective action for Jamaican ships, etc.

(2) Where a determination is made under subsection (1), the surveyor shall notify the Director that corrective action is to be taken to bring the ship into compliance.

(3) Where corrective action is to be taken with respect to a Jamaican ship in the port of another Party, the competent authority in relation to the ship, shall be notified immediately.

(4) Where the Director receives a notification from a surveyor under this section, the Director shall give such surveyor assistance as may be necessary, to prevent the discharge of ballast water.

(5) The corrective action referred to in subsection (1) shall be to—

- (a) withdraw the Certificate; or
- (b) refuse to issue a certificate under section 21.

Validity periods on existing certificates.

24. The Director may determine the validity period of an existing Certificate, however the date of such validity, shall not exceed five years from the date of completion of the renewal survey.

Validity periods of certificates issued on completion of an annual survey.

25.—(1) In circumstances determined by the Director, and in the case of a renewal of a certificate under section 26(b), 29 or 30, the issuance of a new certificate need not be valid from the date of expiry of the existing certificate.

(2) Where an annual survey is completed before the period specified in section 19(1)(d) then—

- (a) the anniversary date shown on the certificate shall be amended by endorsement to a date which shall be no later than three months from the date on which the survey is completed;
- (b) the subsequent annual or intermediate survey required under sections 19(1)(c) and (d) shall be completed at the intervals set out in that section and the validity period shall be from the new anniversary date; and
- (c) the period of validity remains the same as the initial anniversary date provided one or more annual surveys as appropriate are carried out so that the maximum interval between surveys under section 19(1) is not exceeded.

26. Notwithstanding the requirements under section 25, the validity period of a certificate issued on completion of a renewal survey, shall be in accordance with the following—

Validity periods issued on completion of renewal survey.

- (a) where a renewal survey is completed within three months before the expiry date of an existing certificate, a new certificate shall be issued and the certificate shall be valid as at the date of completion of the renewal survey, to a date not exceeding five years from the date of expiry of the existing certificate;
- (b) where a renewal survey is completed after the expiry date of an existing certificate, the new certificate shall be valid as at the date of completion of the renewal survey, to a date not exceeding five years from the date of expiry of the existing certificate;
- (c) where a renewal survey is completed more than three months before the expiry date of the existing certificate, a new certificate shall be issued and be valid from the date of completion of the renewal survey, to a date not exceeding five years from the date of completion of the renewal survey; or
- (d) where under section 29 the renewal certificate is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

27.—(1) Where a certificate issued is valid for a period of less than five years, the Director may extend the period of validity of the certificate beyond the expiry date, to the maximum period specified in section 26, provided that the surveys referred to in section 19(1)(c) are applicable when a certificate is issued for a period of five years are carried out as appropriate.

Extension of period of validity of certificates.

(2) Where a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the surveyor may endorse the existing certificate, and such a certificate shall be accepted as valid for

a further period which shall not exceed five months from the date of expiry.

Validity periods for certificates in special circumstances.

28. In special circumstances determined by the Director, a new certificate need not be dated from the date of expiry, of the existing certificate.

Extension of validity of certificates when ship not in port.

29.—(1) If a certificate in relation to a ship has expired while the ship is not in the port in which it is to be surveyed, the Director may extend the period of validity of the certificate for the ship, where it appears proper and reasonable in the circumstances to do so, and only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed.

(2) A certificate issued under subsection (1) shall not be extended for a period in excess of three months, and a ship to which such extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave the port without renewing the certificate.

(3) Where a new certificate is issued by virtue of this section, such certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

Extension of validity certificates for ships on short voyages.

30.—(1) A certificate issued in relation to a ship engaged on short voyages, may be extended by the Director for a period not exceeding one month, from the date of expiry stated on the certificate.

(2) A certificate issued under this section shall be valid for a period not exceeding five years as from the date of expiry of the existing certificate.

PART IV—*Inspection of Foreign Ships*

Inspection of foreign ships.

31.—(1) A foreign ship in a Jamaican port, may be subject to an inspection, for the purpose of determining whether the ship is in compliance with the provisions of this Act.

(2) An inspector may inspect a foreign ship in a Jamaican port for the purpose of—

- (a) verifying whether there is on board a valid certificate;

- (b) inspecting the Record Book; or
- (c) sampling the ship's ballast water.

(3) The sampling conducted under subsection 2(c), shall be in accordance with the Guidelines developed by the Organization and shall not be used as a basis for unduly delaying the operation, movement or departure of the ship.

(4) In addition to the circumstances provided under subsection (1), a foreign ship may be inspected where the Authority receives a request with supporting documentation from any Party, that the ship is operating or has operated in contravention of the Convention.

(5) An inspector shall carry out a more detailed inspection of a ship where it is determined—

- (a) there is no valid certificate on board;
- (b) there are clear grounds for believing that—
 - (i) the condition of the ship and its equipment does not correspond with the particulars of the certificate; or
 - (ii) the master or the crew are not familiar with the ship's procedures as they relate to ballast water management or have not implemented such procedures or its equivalent.

(6) Where an inspection is being carried out under subsection (5), the inspector shall take steps to prevent the owner or master of the ship discharging ballast water, until such discharge can take place in conditions where there is no threat or harm to the environment, human health, property or resources.

PART V—Miscellaneous

32.—(1) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the ability of the ship to undergo ballast water management in accordance with Part II, the owner or

Reports of accidents and defects.

master shall report the accident or defect at the earliest opportunity to the Director and surveyor responsible for issuing the relevant certificate.

(2) If the ship is in the port of another State, the owner or master of the ship shall also report only the incident or defect referred to in subsection (1), immediately to the Director and the appropriate Authority of that State.

(3) Where an incident or defect is reported under subsection (1), the Director shall then cause an investigation to be initiated, to determine whether a survey required under section 19 is necessary.

Detection of
violations,
etc.

33.—(1) The Inspector may on his own initiative or at the request of another Party, board any ship in a Jamaican port, for the purpose of determining whether there are any violations of any provision of this Act.

(2) Subject to subsection (3), where the Inspector has determined that a ship is being operated contrary to this Act, the Inspector may take steps to warn, detain or exclude the ship from Jamaican waters.

(3) The Inspector may, where there is no threat of harm to the environment, health, property or resources of Jamaica, allow the ship to leave the port, for the purpose of discharging ballast water, at the nearest available repair yard or reception facility.

(4) In the case of a ship in respect of which sampling has been conducted, the Inspector shall prohibit the ship from discharging ballast water, if the results of such sampling reveal that the ship poses a threat as specified in subsection (3).

(5) Where a request in respect of a foreign ship is made under subsection (1), the report of such investigation shall be sent to the Party requesting the investigation.

Notification
of control
actions.

34.—(1) Where it is determined by virtue of an inspection that there is a violation under the Convention, the Director shall notify the ship and forward a report to the requesting Party concerned, including evidence of the violation.

(2) In the event that any action is taken under section 33(2) and (3) in relation to a ship, the inspector carrying out such action shall—

- (a) forthwith inform in writing, the competent authority of the ship concerned, or the resident consul or diplomatic representative of the ship concerned, of all the circumstances in which the action was deemed necessary; and
- (b) notify the recognized organization responsible for the issue of certificates under this Act.

(3) The Director, where an Inspector is unable to take action as specified in section 33(2) and (3), or if the ship has been allowed to proceed to the next port of call, the Director shall in addition to the parties mentioned in subsection (2), notify the next port of call of all relevant information as it relates to the violation.

(4) In this section “recognized organization” means an organization that has been given authorization by a Party to perform statutory certification and services on behalf of the Party.

35.—(1) The owner, master or agent of any ship to which this Act applies shall ensure that— Maintenance requirements.

- (a) the condition of the ship and its equipment, systems and processes be maintained to conform with the provisions of this Act; and
- (b) after a survey of the ship under section 19 has been completed, no change shall be made in the structure, equipment, fittings, arrangements or material associated with the ballast water management plan, without the prior approval of the Director.

(2) Subsection (1) (b) shall not apply in a circumstance where there is a replacement of equipment or fittings of the ship.

36.—(1) The Inspector shall make every possible effort to avoid undue detention or delay of a ship under section 31. Undue delay to ships.

(2) The owner of a ship that is unduly detained or delayed under subsection (1), shall be entitled to compensation for any loss or damage incurred.

Offences.

37.—(1) Any person who—

- (a) fails to complete and submit a ballast water management report form under section 4(2);
- (b) fails to comply with the notification of additional measures under section 10(4);
- (c) fails to report the discharge of ballast water under section 14(1);
- (d) falsifies any entry made in the Record Book kept under section 14(2);
- (e) falsifies a certificate issued under section 20(2);
- (f) fails to produce a Record Book when requested under section 31(2)(b);
- (g) obstructs an inspector or surveyor while carrying out their duties under this Act, shall be liable on conviction in the Supreme Court, to a fine not exceeding ten million dollars.

(2) Any person who causes the discharge of ballast water or sediments contrary to the provisions of this Act, shall be liable on conviction in the Supreme Court, to a fine not exceeding thirty million dollars.

Minister may
amend
monetary
penalties.

38. The Minister may, by order subject to affirmative resolution, amend the monetary penalties in this Act.

Regulations.

39. The Minister may make regulations generally for giving effect to the purposes and provisions of this Act and in particular may make regulations for prescribing the criteria for determining the adequacy

Signature of officer in charge of the operation: _____

Date: _____

Signature of master: _____

Date: _____

The ship is provided with a Ballast Water Management Plan

Diagram of ship indicating ballast tanks:

Notes:

1. A record shall be kept of each ballast water operation specifying discharges at sea and to reception facilities.
2. Entries in the Ballast Water Record Book shall be made on each of the following occasions—
 - (a) When ballast water is taken on board, the—
 - (i) date, time and location port or facility of uptake (port or latitude/longitude), depth if outside port;
 - (ii) estimated volume of uptake in cubic metres;
 - (iii) signature of the officer in charge of the operation; and
 - (iv) signature of master;
 - (b) Whenever ballast water is circulated or treated for ballast water management purposes, the—
 - (i) date and time of operation;
 - (ii) estimated volume circulated or treated (in cubic metres);
 - (iii) whether conducted in accordance with the Ballast Water Management plan;
 - (iv) signature of the officer in charge of the operation.
 - (c) When Ballast Water is discharged into the sea, the—
 - (i) date, time and location port or facility of discharge (port or lat/long);
 - (ii) estimated volume discharged in cubic metres plus remaining volume in cubic metres;
 - (iii) whether approved Ballast Water Management plan had been implemented prior to discharge;

- (iv) signature of the officer in charge of the operation.
- (d) Discharge of Ballast Water to a reception facility specifying the—
 - (i) date, time, and location of uptake;
 - (ii) date, time, and location of discharge;
 - (iii) port or facility;
 - (iv) estimated volume discharged or taken up, in cubic metres;
 - (v) whether approved Ballast Water Management plan had been implemented prior to discharge; and
 - (vi) signature of officer in charge of the operation;
- (e) Accidental or other exceptional uptake or discharges of Ballast Water specifying the—
 - (i) date and time of occurrence;
 - (ii) port or position of the ship at time of occurrence;
 - (iii) estimated volume of Ballast Water discharged;
 - (iv) circumstances of uptake, discharge, escape or loss, the reason therefor and general remarks;
 - (v) whether approved Ballast Water Management plan had been implemented prior to discharge;
 - (vi) signature of officer in charge of the operation; and
- (f) Additional operational procedure and general remarks.

(Section 21)

FORM 2

Cert. No.: IBWMC 00 _____



INTERNATIONAL BALLAST WATER MANAGEMENT CERTIFICATE

Issued under the provisions of the
INTERNATIONAL CONVENTION FOR THE CONTROL AND
MANAGEMENT OF SHIPS' BALLAST WATER AND SEDIMENTS
(hereinafter referred to as "the Convention")
under the authority of the Government of JAMAICA

by

The Maritime Authority of Jamaica

Name of Ship	Distinctive Number of Letters	Port of Registry	Gross Tonnage	IMO Number
Date of Construction		Ballast Water Capacity (Cubic meters)		

Details of Ballast Water Management Method(s) Used

Date installed _____ (if applicable)

Name of manufacturer (if applicable)

The principal ballast water management method(s) employed on this ship is/are:

- in accordance with section 11
- in accordance with Regulation D-2 of the Annex
- The ship is subject to Regulation D-4 of the Annex

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with section 19; and
2. That the survey shows that ballast water management in relation to the ship complies with Part II.

This certificate is valid until _____ subject to the surveys conducted in accordance with section 19.

Completion date of the survey on which this certificate is based: _____
dd/mm/yy

Issued at KINGSTON, JAMAICA

Issued date _____
dd/mm/yy

Surveyor General

Official seal

ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEY(S)

THIS IS TO CERTIFY that, at a survey required under section 19, the ship was found to comply with the relevant provisions of the Convention.

Annual survey:

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____
Official seal

Annual/Intermediate¹ Survey:

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____
Official seal

Annual/Intermediate¹ Survey:

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____

Official seal

Annual survey:

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____

Official seal

1. Delete as appropriate

Annual/Intermediate survey in accordance with section 25(2)(c)

THIS IS TO CERTIFY that, at an annual/intermediate¹ survey in accordance with section 25(2)(c), this ship was found to comply with the relevant provisions of the Convention.

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____

Official seal

Endorsement to extend the certificate if valid for less than 5 years where section 27 applies

The ship complies with the relevant requirements of the Convention and this Certificate shall, in accordance with section 27, be accepted as valid until _____

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____

Official seal

Endorsement where the renewal survey has been completed and section 27(2) applies

This ship complies with the relevant provisions of the Convention and this Certificate shall, in accordance with section 27(2), be accepted as valid until

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____

Official seal

Endorsement to extend the validity of the certificate until reaching the port of survey or for a period of grace where section 29 or 30 applies

The certificate shall, in accordance with section 29 or 30, be accepted as valid until _____

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____

Official seal

Endorsement for advancement of anniversary date where section 25(2) applies

In accordance with section 25(2), the new anniversary date is _____

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____ Official seal

In accordance with section 25(2), the new anniversary date is _____

Signed: _____
(Signature of authorized personnel)

Place: _____

Date: _____ Official seal

1. Delete as appropriate

Passed in the House of Representatives this 10th day of July, 2018 with one (1) amendment.

PEARNEL CHARLES, CD, MP, JP
Speaker.

MEMORANDUM OF OBJECTS AND REASONS

Invasive marine species are one of the four greatest threats to the world oceans. Unlike other forms of marine pollution, such as oil spills, where remedial action can be taken and from which the environment will eventually recover, the impact of invasive marine species is most often irreversible.

The International Maritime Organization (IMO) recognizing the importance of Ballast Water Management by the Organization, through assembly resolutions Article 774(18) in 1993 and Article 868(20) in 1997, adopted for the purpose of addressing the harmful aquatic organisms and pathogens, the International Convention for the Control and Management of Ships Ballast Water and Sediments 2004, hereinafter referred to as the Convention.

The Convention was formed *inter alia*, by IMO recalling Article 196(1) of the 1982, United Nations Convention on the Law of the Sea (UNCLOS), which provides that States shall take all measures necessary to prevent, reduce and control pollution of the maritime environment resulting from the use of technologies under their jurisdiction, or control the intentional or accidental introduction of species alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto.

This Bill therefore seeks to give effect to Cabinet Decision to incorporate into domestic law, the provisions of the Convention to prevent, minimize and ultimately eliminate the risks to the environment, human health, property and resources arising from the harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediments.

MICHAEL HENRY
Minister of Transport and Mining.

A BILL

ENTITLED

**AN ACT to give effect to the provisions of the
International Convention for the Control
and Management of Ships' Ballast Water
and Sediments, 2004.**

As passed in the Honourable House of Representatives.

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