

**THE INTERNATIONAL CONVENTION FOR THE CONTROL AND MANAGEMENT OF SHIPS'
BALLAST WATER AND SEDIMENTS (RATIFICATION) AND FOR MATTERS CONNECTED
THEREWITH LAW OF 2018**

RATIFICATION LAW 5(III)/2018¹

ARRANGEMENT OF SECTIONS ²

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¹ Editorial Note: *This Law was published in the Greek language in the Official Gazette of the Republic of Cyprus No. 4244, dated 04.05.2018, Supplement I(III). This is an "unofficial" translation into English prepared by the Shipping Deputy Ministry to the President (SDM) and does not intend to replace any translation prepared by the Law Commissioner's Office.*

*According to Article 3 of the Constitution of the Republic of Cyprus, the official languages of the Republic of Cyprus are Greek and Turkish and therefore the present translation into English is **not the authentic version. The authentic and therefore legally binding version, is the Greek version of this Law.***

Disclaimer: This translated document is intended for use as a documentation tool and the Shipping Deputy Ministry to the President of the Republic of Cyprus does not assume any liability for its content.

² Editorial Note: The present Arrangement of Sections is not forming part of the Ratification Law. It is added by the SDM to assist the reader.

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The House of Representatives enacts as follows:

Short title.

1. This Law shall be cited as the International Convention for the Control and Management of Ships' Ballast Water and Sediments (Ratification) and for Matters Connected Therewith Law of 2018.

Interpretation.

2.-(1) In this Law unless the context otherwise requires—

“Annex” means the Annex to the Convention and its Appendices, as these are amended or replaced, which constitute an integral part of the Convention;

“Certificate” means the International Ballast Water Management Certificate issued pursuant to the provisions of the Convention;

“Competent Authority” means the Shipping Deputy Minister and includes any person generally or specially authorised by the Shipping Deputy Minister serving at the Shipping Deputy Ministry;

“Convention” means the International Convention for the Control and Management of Ships' Ballast Water and Sediments, as amended or replaced, signed in London on the 13th February 2004 the accession to

which has been approved by virtue of the Council of Ministers' Decision No. 81.740 dated 2 December 2016;

Provided that, a reference in this Law to the Convention includes a reference to the Annex thereto;

“Cyprus Ports Authority” means the Cyprus Ports Authority established by virtue of section 4 of *the Cyprus Ports Authority Laws of 1973-2016*;

38 of 1973
59 of 1977
28 of 1979
195 of 1986
20 of 1987
62 of 1987
207 of 1988
229 of 1989
59(I) of 1992
51(I) of 1993
2(I) of 1997
136(I) of 2002
134(I) of 2004
164(I) of 2004
38(I) of 2006
155(I) of 2007
86(I) of 2008
94(I) of 2008
71(I) of 2011
85(I) of 2015
160(I) of 2015
132(I) of 2016.

“Cyprus ship” means a ship which is registered in the Register of Cyprus ships and flying the Cyprus flag pursuant to the provisions of *the Merchant Shipping (Registration, Sales and Mortgages) Laws of 1963-2005*;

45 of 1963
32 of 1965
82 of 1968
62 of 1973
102 of 1973
42 of 1979
25 of 1980
14 of 1982
57 of 1986
64 of 1987
28(I) of 1995
37(I) of 1996
138(I) of 2003
169(I) of 2004
108(I) of 2005.

“exclusive economic zone of the Republic” means the exclusive economic zone of the Republic established by virtue of *the Exclusive Economic Zone and Continental Shelf Laws of 2004-2014*;

64(I) of 2004
97(I) of 2014.

“guidelines” means the guidelines that have been adopted or will be adopted by the IMO on the implementation of the Convention, as these guidelines are amended or replaced, including the guidelines that have

been adopted by the following Resolutions of the IMO Marine Environment Protection Committee:

- Resolution MEPC 123(53) of 22nd July 2005, “Guidelines for ballast water management equivalent compliance”,
- Resolution MEPC 124(53) of 22nd July 2005, “Guidelines for ballast water exchange”,
- Resolution MEPC 127(53) of 22nd July 2005, “Guidelines for ballast water management and development of ballast water management plans”,
- Resolution MEPC 140(54) of 24th March 2006, “Guidelines for approval and oversight of prototype ballast water treatment technology programmes”,
- Resolution MEPC 149(55) of 13th October 2006, “Guidelines for ballast water exchange design and construction standards”,
- Resolution MEPC 151(55) of 13th October 2006, “Guidelines on designation of areas for ballast water exchange”,
- Resolution MEPC 152(55) of 13th October 2006, “Guidelines for sediment reception facilities”,
- Resolution MEPC 153(55) of 13th October 2006, “Guidelines for ballast water reception facilities”,
- Resolution MEPC 161(56) of 13th July 2007, “Guidelines for additional measures regarding ballast water management including emergency situations”,
- Resolution MEPC 162(56) of 13th July 2007, “Guidelines for risk assessment under Regulation A-4 of the Convention”,
- Resolution MEPC 169(57) of 4th April 2008, “Procedure for approval of ballast water management systems that make use of active substances”,
- Resolution MEPC 173(58) of 10th October 2008, “Guidelines for ballast water sampling”,
- Resolution MEPC 174(58) of 10th October 2008, “Guidelines for approval of ballast water management systems”,
- Resolution MEPC 209(63) of 2nd March 2012, “Guidelines on design and construction to facilitate sediment control on ships”,
- Resolution MEPC 279(70) of 28th October 2016, “Guidelines for approval of ballast water management systems”,
- Resolution MEPC 288(71) of 7th July 2017, “Guidelines for ballast water exchange”,
- Resolution MEPC 289(71) of 7th July 2017, “Guidelines for risk assessment under Regulation A-4 of the Convention”;

“IMO” means the International Maritime Organization;

"master" means any person having the command of the ship;

"operator of the ship" means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, who has assumed the responsibility for operating the ship from the shipowner and who, on assuming such responsibility, has agreed to undertake all the duties and responsibilities which are imposed by this Law and includes also a legal person;

"Permanent Secretary" means the Permanent Secretary of the Shipping Deputy Ministry and includes the person who acts as Permanent Secretary and the officers of the Shipping Deputy Ministry who are authorised by the Permanent Secretary;

128(I) of 2011. "recognised organisation" means an organisation recognised and authorised by virtue of *the Merchant Shipping (Recognition and Authorisation of Organisations) Law of 2011*;

"Republic" means the Republic of Cyprus;

"shipowner" means a natural or legal person who owns the ship and is the registered owner in the State of the ship's registry and it includes the operator of the ship;

123(I) of 2017. "Shipping Deputy Minister" or "Deputy Minister" means the Shipping Deputy Minister appointed and exercising the powers and duties assigned to him in accordance with the provisions of *the Establishment of a Shipping Deputy Ministry to the President and Appointment of a Shipping Deputy Minister to the President and for Matters Connected Therewith Law of 2017*;

"Shipping Deputy Ministry" means the Shipping Deputy Ministry established and operating pursuant to the provisions of *the Establishment of a Shipping Deputy Ministry to the President and Appointment of a Shipping Deputy Minister to the President and for Matters Connected Therewith Law of 2017*.

"surveyor of ships» means a person appointed by the Council of Ministers as a surveyor of ships by virtue of paragraph (a) of subsection (2) of section 3 of *the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963-2005*;

45 of 1964
95(I) of 2014. "territorial sea" means the territorial sea defined by virtue of section 2 of *the Territorial Sea Laws of 1964-2014*;

203 of 1988. "United Nations Convention on the Law of the Sea" means the United Nations Convention on the Law of the Sea, 1982, which was ratified by virtue of *the United Nations Convention on the Law of the Sea (Ratification) Law of 1988*.

(2) Terms not otherwise defined in this section shall have the meaning attributed to such terms by the Convention and in case there is a discrepancy between this Law and the Convention, the interpretation provided by the Convention shall prevail.

Ratification of Convention.

3. The Convention, the text of which is set out in the English original in Part I of the Schedule and in translation in Greek in Part II of the Schedule, is hereby ratified.³

*Schedule.
Part I
Part II.*

Provided that, in case of conflict between the text in Part I and that in Part II of the Schedule, the text set out in Part I shall prevail.

Scope of application.

4. Subject to the exceptions provided in Article 3(2) of the Convention, the provisions of the Convention, this Law and the Regulations made there under shall apply-

- (a) to Cyprus ships wherever located;
- (b) to foreign ships when they call ports of the Republic or otherwise when they are within the territorial sea or the exclusive economic zone of the Republic irrespective of whether the countries whose flag they fly, are Contracting parties or not to the Convention:

Provided that, in relation to ships flying the flag of a non-Contracting party to the Convention, the provisions of this Law and the Regulations made there under apply ensuring that no more favourable treatment is given to such ships, subject to the provisions of international law and in particular, within the framework of the rights, jurisdiction and obligations of the Republic by virtue of the United Nations Convention on the Law of the Sea.

General obligation of the master and operator of a ship to conform with the provisions of the Convention.

5.-(1) The master and the operator of a Cyprus ship or a foreign ship have an obligation to conform with the requirements set forth in the Convention relating to the transfer of harmful aquatic organisms and pathogens through ships' ballast water and sediments, including the standards and requirements contained in the Annex.

Annex.

(2) In implementing the Convention, the master and the operator of a Cyprus ship or a foreign ship take the guidelines into account.

(3) The discharge of ballast water by a Cyprus ship or a foreign ship is

³ Editorial Note: The present translated text does not include the *Schedule*, i.e. the full text of the Convention obtainable from the International Maritime Organization (IMO) publications .

prohibited unless permitted pursuant to the provisions of the Convention.

Obligation of the master and operator of a ship to have and to implement a Ballast Water Management Plan.

6. The master and the operator of a Cyprus ship or a foreign ship have an obligation to have and to implement a Ballast Water Management Plan, in accordance with the Convention and taking the guidelines into account.

Obligation of the master and operator of a ship to maintain a Ballast Water Record Book.

7.—(1) The master and the operator of a Cyprus ship or a foreign ship have an obligation to maintain a Ballast Water Record Book on board the ship.

(2) The Ballast Water Record Book is maintained in electronic or hard copy format in accordance with the provisions of the Convention and each operation concerning ballast water shall be fully recorded to the Ballast Water Record Book without delay.

Obligation of the master and operator of a ship to conduct ballast water management for ships.

8. The master and the operator of a Cyprus ship or a foreign ship have an obligation to conduct ballast water management for ships depending on the ballast water capacity and the year of construction in accordance with the provisions of the Convention:

Provided that, the ballast water management shall at least fulfill the required standards for ballast water management pursuant to the provisions of the Convention.

Obligation of the master and operator of a ship to conduct ballast water exchange in accordance with the Convention.

9.—(1) The master and the operator of a Cyprus ship or a foreign ship have an obligation to conduct ballast water exchange in accordance with the provisions of the Convention and taking the guidelines into account.

(2)(a) In relation to maritime areas under the jurisdiction of the Republic where the distance from the nearest land or the depth do not meet those set forth in the Convention, the Competent Authority may, in cooperation with the Department of Fisheries and Marine Research and the Environment Department of the Ministry of Agriculture, Rural Development and Environment, define areas where ballast water exchange may be conducted taking into account the provisions of the Convention and the guidelines.

(b) The Competent Authority may define the maritime areas provided in paragraph (a) of this subsection by virtue of a notification published in the Official Gazette of the Republic.

Obligation of the master and operator of a ship to manage sediments in accordance with the Convention.

10. The master and the operator of a Cyprus ship or a foreign ship falling within the provisions of this Law have an obligation to remove sediments from spaces designated to carry ballast water in accordance with the provisions of the Convention and taking the guidelines into account and to deliver them to sediment reception facilities.

Sediment Reception Facilities.

11.-(1)(a) The Competent Authority ensures that in the ports and terminals of the Republic of Cyprus where cleaning or repair of ballast tanks occurs, adequate facilities are provided for the reception of sediments, taking the guidelines into account.

(b) The Cyprus Ports Authority and/ or the operators of ports or facilities in the Republic have an obligation, with respect to their ports or facilities, to ensure that adequate facilities are provided for the reception of sediments in accordance with this section.

(2) Such reception facilities shall operate without causing undue delay to ships and shall provide for the safe disposal of such sediments that does not impair or damage their environment, human health, property or resources of the Republic or those of other States.

(3) The collection, transfer, disposal and final processing of sediments shall be performed in accordance with the *Waste Laws of 2011- 2016* and the Regulations and Orders made thereunder.

*185(I) of 2011
6(I) of 2012
32(I) of 2014
55(I) of 2014
31(I) of 2015
3(I) of 2016
120(I) of 2016.*

(4) Pursuant to the provisions of paragraph (2) of Article 5 of the Convention, the Competent Authority notifies the IMO of all cases where the facilities provided under subsection (1) are alleged as inadequate.

Competences of the Competent Authority.

12.- (1) The Competent Authority has the competence and responsibility of-

- (i) inspecting Cyprus ships;
- (ii) issuing the Certificate to Cyprus ships;
- (iii) endorsing the Certificate following an inspection;
- (iv) approving Ballast Water Management Plans;
- (v) granting exceptions/exemptions to Cyprus flagged ships,

in accordance with the provisions of the Convention.

(2) The Competent Authority may authorise a recognised organisation to perform, on its behalf, the competences and responsibilities provided in subsection (1), in accordance with the provisions of the Convention.

Control of compliance of Cyprus ships.

13.-(1) The Competent Authority has the power to control and/or verify compliance of Cyprus ships, irrespective of where these are around the globe, with the provisions of the Convention, of this Law and the Regulations made thereunder.

(2)(a) In carrying out the control provided in subsection (1), the surveyors of ships have, among other, the following powers-

(i) to stop, enter, inspect and survey any Cyprus ship, whether at port or at sea;

(ii) to verify the existence of a valid Certificate on board a Cyprus ship;

(iii) to verify the existence of an approved Ballast Water Management Plan on board a Cyprus ship;

(iv) to inspect the Ballast Water Record Book and obtain a copy of an entry in the Record Book and to require the Master to certify that the copy is a true copy in accordance with the provisions of the Convention;

(v) to carry out sampling of the Cyprus ship's ballast water in accordance with the guidelines;

(vi) to check that the condition of the Cyprus ship and its equipment corresponds substantially with the particulars of the Certificate;

(vii) to check that the master and the crew of a Cyprus ship are familiar with essential shipboarding procedures relating to ballast water management and implement such procedures:

Provided that, during the control and compliance carried out pursuant to this section, all efforts shall be made to avoid a Cyprus ship being unduly detained or delayed in accordance with Article 12 of the Convention.

(b) The powers granted to the surveyors of ships pursuant to

paragraph (a) of this subsection, are also granted to the inspectors of Cyprus ships appointed by the Council of Ministers under paragraph (b) of subsection (2) of section 3 of *the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963-2005*.

(3) Without prejudice to additional powers granted to the Competent Authority by this Law or any other relevant legislation, in case where the Permanent Secretary ascertains that there is a contravention of an obligation deriving from the Convention or as a result of a control of compliance carried out in accordance with subsection (2), then the Permanent Secretary may take any of the following decisions until the non-conformity is rectified:

- (a) to prohibit the performance of voyages;
- (b) to instruct a Cyprus ship to move to a certain location and remain there.

Control of compliance of foreign ships in ports, the territorial sea or the offshore installations of the Republic.

14.-(1) The Competent Authority has the power to control and/or verify compliance of foreign ships that are within a port, the territorial sea or an offshore installation of the Republic, with the provisions of the Convention, this Law and the Regulations made thereunder.

(2) In carrying out the control provided in subsection (1), the surveyors of ships have, among other, the following powers-

- (a) to stop, enter, inspect and survey any ship falling within the scope of application of this Law and the Convention, whether at port or at sea;
- (b) to verify the existence of a valid Certificate on board a ship;
- (c) to verify the existence of an approved Ballast Water Management Plan on board a ship;
- (d) to inspect the Ballast Water Record Book;
- (e) to carry out sampling of a ship's ballast water in accordance with the guidelines;
- (f) to check that the condition of a ship and its equipment corresponds substantially with the particulars of the Certificate and carry out a detailed inspection in accordance with Article 9(2) of the Convention;

- (g) to check that the master and the crew of a ship are familiar with essential shipboarding procedures relating to ballast water management and implement such procedures and carry out a detailed inspection in accordance with Article 9(2) of the Convention:

Provided that, during the control and compliance carried out pursuant to this section, all efforts shall be made to avoid a Cyprus ship being unduly detained or delayed in accordance with Article 12 of the Convention.

(3) In case where the Permanent Secretary ascertains that there is a contravention of an obligation deriving from the Convention or as a result of a control of compliance carried out in accordance with subsection (2), then the Permanent Secretary may take any of the following decisions until the non-conformity is rectified:

- (a) to refuse the entry of a foreign ship into a port of the Republic;
- (b) to expel a foreign ship from a port of the Republic and/ or from the territorial sea of the Republic and/ or from an offshore installation of the Republic;
- (c) to prohibit the sailing of a foreign ship from a port of the Republic and/ or from the territorial sea of the Republic and/ or from an offshore installation of the Republic;
- (d) to order such foreign ship to move at a given location and remain there;

Granting of exceptions/exemptions to ships located within the territory of the Republic.

15.-(1) Subject to the provisions of subsection (2), the Competent Authority may grant exceptions/exemptions from obligations deriving from the Convention to ships located within the territory of the Republic.

(2) The granting of exceptions/exemptions under subsection (1) is carried out-

- (a) in accordance with the provisions of the Convention and taking the guidelines developed by the IMO into account;
- (b) provided that it has been communicated to the IMO in advance;

(c) provided that the granting of an exception/exemption does not impair or damage the environment, human health, property or resources of the Republic or that of adjacent or other States.

(3) The master and the operator of a ship to which an exception/exemption has been granted by the Competent Authority by virtue of subsection (1) has an obligation to record such exception/exemption in the Ballast Water Record Book carried on board the ship.

Equivalent compliance for certain ships.

16. The Competent Authority may determine an equivalent compliance for certain ships, in accordance with the provisions of the Convention and in particular of Regulation A-5 of the Annex and taking the guidelines into account.

Criminal offences.

17. A person who fails to conform with an obligation laid down in this Law, the Convention and the Regulations made under this Law is guilty of an offence and upon conviction, is liable to a sentence of imprisonment for a period not exceeding four (4) years or to a fine not exceeding fifty thousand Euro (€50.000) or to both such sentences.

Administrative fine.

18.-(1) Contravention of the provisions of the Convention, of this Law and of the Regulations made there under, shall be punishable, notwithstanding whether a case of criminal or disciplinary liability arises under this Law or any other law, with an administrative fine up to thirty thousand Euro (€30.000), depending on the seriousness of the contravention.

(2) The administrative fine is imposed on the shipowner by a reasoned decision of the Permanent Secretary confirming the contravention.

(3) The amount of the administrative fine imposed by virtue of subsection (2) above shall be calculated in each case on the basis of indicative directions issued by the Deputy Minister, without thereby limiting, within the scope of the directions, the discretionary power of the Permanent Secretary, who confirms the particular contravention, to decide freely on the basis of the actual facts of each case.

(4) The Permanent Secretary shall notify the shipowner of its decision imposing the administrative fine and does not allow the lifting of a prohibition of sailing, arrival or performance of a voyage issued under this Law until the administrative fine has been paid or a bank guarantee issued by a recognised bank of equivalent amount for the benefit of and with terms satisfying the Permanent Secretary has been deposited.

*Hierarchical
Recourse.*

19.-(1) The shipowner may file a hierarchical recourse before the Deputy Minister, regarding a decision imposing a prohibition of sailing, arrival or performance of a voyage or imposing an administrative fine within thirty (30) days from the date of notification of the decision, in the case of a contravention confirmed in a port of the Republic or within sixty (60) days, in the case of a contravention confirmed in a foreign port.

(2) The recourse, provided for in subsection (1) above, shall not suspend (stay) the execution of the decision.

(3) The Deputy Minister examines the hierarchical recourse and after having heard the interested parties or having given them the opportunity to express their position in writing, issues a decision on the recourse, in accordance with subsection (4), within a time-limit of ten (10) days at the latest.

(4) The Deputy Minister may issue any of the following decisions:

- (a) To confirm the challenged decision;
- (b) to declare the challenged decision null and void;
- (c) to amend the challenged decision;
- (d) to issue a new decision in substitution of the challenged decision.

(5) With the issuing of a decision imposing a prohibition of sailing, arrival, performance of a voyage or imposition of an administrative fine, the shipowner is informed of the right to file a recourse under subsection (1).

(6) The amount of the administrative fine or the bank guarantee shall fall and rests definitely to the Republic, if no recourse to the Supreme Court is filed after the lapse of seventy-five (75) days, either from the date of the notification of the decision imposing the administrative fine, or in case where a hierarchical recourse is filed with the Deputy Minister, from the date of the notification of the Deputy Minister's dismissing decision.

*Charge
on a ship.*

20. Notwithstanding the provisions of any other law, the administrative fine imposed under section 18 of this Law constitutes a charge on the ship in connection with which the contravention was ascertained, which is satisfied in priority against any other creditors, subject to its ranking after the last mortgage.

Determination of fees.

21. The Deputy Minister may prescribe the fees payable with respect to services offered by virtue of this Law and the Convention by a Decision published in the Official Gazette of the Republic.

Making of Regulations.

22.-(1) The Council of Ministers has the power to make Regulations for the better implementation of the provisions of the Convention and this Law in accordance with the provisions of *the Regulations Made under a Law (Laying Before the House of Representatives) Laws of 1989-2010.*

*99 of 1989
227 of 1990
27(I) of 1992
54(I) of 2008
3(I) of 2010.*

(2) Regulations issued by virtue of this section may set offences and establish fines, not exceeding the amount of fifty thousand Euro (€50.000) and sentences of imprisonment not exceeding four (4) years or both such sentences.

Entry into force of this Law.

23. The entry into force of this Law shall be determined by the Council of Ministers by virtue of a notification published in the Official Gazette of the Republic.

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