
STATUTORY INSTRUMENTS

1998 No. 1377

MARINE POLLUTION

**The Merchant Shipping (Prevention of
Pollution by Garbage) Regulations 1998**

<i>Made</i>	- - - -	<i>1st June 1998</i>
<i>Laid before Parliament</i>		<i>10th June 1998</i>
<i>Coming into force</i>	- -	<i>1st July 1998</i>

The Secretary of State for the Environment, Transport and the Regions, in exercise of powers conferred by article 2 of the Merchant Shipping (Prevention of Pollution by Garbage) Order 1988(1) and article 2 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1998 and shall come into force on 1st July 1998.

(2) The following Regulations are hereby revoked:

- (a) the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988(3);
- (b) the Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulations 1993(4).

Interpretation

2.—(1) In these Regulations:

“the Act” means the Merchant Shipping Act 1995(5);

“certified” means, in relation to a ship, certified in accordance with the Merchant Shipping (Survey and Certification) Regulations 1995(6);

-
- (1) S.I. 1988/2252, amended by S.I. 1993/1581, S.I. 1997/2569 and 1998/254. The effect of the Order is extended by section 128(5) of the Merchant Shipping Act 1995 which provides that Regulations made under the Order may be made for the purposes of giving effect to an agreement which provides for the modification of certain descriptions of agreement.
 - (2) S.I. 1996/282.
 - (3) S.I. 1988/2292.
 - (4) S.I. 1993/1681.
 - (5) 1995 c. 21.
 - (6) S.I. 1995/1210, amended by S.I. 1996/2418.

“controlled waters” means the waters specified as areas within which the jurisdiction and rights of the United Kingdom are exercisable by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996(7);

“Convention” means the International Convention for the Prevention of Pollution from Ships 1973, including its protocols and Annex V (but no other Annex) and appendices thereto(8) as amended by the Protocol of 1978 to that Convention(9) and includes all the amendments adopted by the Organisation’s Marine Environment Protection Committee before September 1997 and any subsequent amendment which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“from the nearest land” means, in relation to all land other than the part of Australia specified below, from the nearest baseline from which the territorial sea of any territory is established in accordance with international law; and in relation to the part of the north-eastern coast of Australia which lies between the points 11°00’S, 142°08’E and 24°42’S, 153°15’E, means from the nearest of the straight lines joining consecutively the following points:

11°00’S, 142°08’E; 10°35’S, 141°55’E; 10°00’S, 142°00’E; 9°10’S, 143°52’E; 9°00’S, 144°30’E; 13°00’S, 144°00’E; 15°00’S, 146°00’E; 18°00’S, 147°00’E; 21°00’S, 153°00’E and 24°42’S, 153°15’E;

“garbage” means all kinds of victual, domestic and operational wastes excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically except sewage originating from ships;

“harmful substances in packaged form” means those substances which are identified as marine pollutants in the IMDG Code and which are in the form of containment specified in the schedules of that Code;

“the IMDG Code” means the 1994 edition of the International Maritime Dangerous Goods Code published by the International Maritime Organisation, as amended from time to time by any document which is considered by the Secretary of State to be relevant and is specified in a Merchant Shipping Notice;

“inspector” means a person appointed as an inspector by the Secretary of State for the purposes of these Regulations under section 256 of the Act or regulation 12(4) below;

“installation” means any drilling or production platform or any other platform used in connection with the exploration, exploitation or associated offshore processing of seabed mineral resources;

“Merchant Shipping Notice” means a notice described as such and issued by the Secretary of State; and any reference to a particular Merchant Shipping Notice includes a reference to any such document amending or replacing that notice;

“mile” means an international nautical mile, that is to say a distance of 1,852 metres;

“noxious liquid substances” and “non-polluting liquid substances” have the meanings respectively given to them in the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996(10);

“oil” and “oily mixtures” have the meanings respectively given to them in the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996(11);

(7) S.I. 1996/2128, amended by S.I. 1997/506.

(8) Cmnd. 5748.

(9) Cmnd. 7347.

(10) S.I. 1996/3010, to which there is an amendment not relevant to these Regulations.

(11) S.I. 1996/2154, to which there is an amendment not relevant to these Regulations.

“operational wastes” means all maintenance wastes, cargo associated wastes and cargo residues except residues or wastes from oil or oily mixtures, noxious liquid substances, non-polluting liquid substances or harmful substances in packaged form;

“the Organisation” means the International Maritime Organisation;

“overall length” means the extreme length of the hull measured between the foremost part of the bow and the aftmost part of the stern;

“plastics” includes, but is not limited to, synthetic ropes, synthetic fishing nets, plastic bags and foam plastics (polystyrene and styrofoam);

“required standard” means, in relation to comminuted or ground garbage, comminuted or ground sufficiently finely to be capable of passing through a screen with openings no greater than 25 millimetres;

“sea” includes any estuary or arm of the sea;

“ship” means a vessel of any type whatsoever operating in the marine environment including submersible craft, floating craft and hovercraft;

“United Kingdom ship” means a ship which:

- (a) is registered in the United Kingdom; or
- (b) is not registered under the law of any country but is wholly owned by persons each of whom is either a British citizen or a body corporate which is established under the law of a part of the United Kingdom and has its principle place of business in a part of the United Kingdom.

(2) For the purposes of these Regulations a Special Area is any of the following areas, that is to say the Baltic Sea area, the North Sea area and the Antarctic area; and the said areas are respectively defined as follows—

- (a) “the Baltic Sea area” means the Baltic Sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel 57° 44'.8 N east of the Skaw in the Skagerrak;
- (b) “the North Sea area” means all sea areas within the following boundaries (including the North Sea proper and the English Channel and its approaches)—
 - (i) to the north, the boundary constituted by the 62° N parallel from Norway westward to 4° W meridian and thence southward to Scotland;
 - (ii) to the east, the boundary constituted by the parallel 57° 44'.8 N east of the Skaw in the Skagerrak;
 - (iii) to the south, the boundary constituted by the parallel 48° 30' N from France westward to 5° W meridian and thence northward to England;
- (c) “the Antarctic area” means the sea area south of latitude 60° S.

(3) In the application of these Regulations to a hovercraft, references to the master of a ship shall be taken to include references to the captain of the hovercraft.

Application

3. These Regulations apply to—

- (a) United Kingdom ships wherever they may be;
- (b) other ships while they are in United Kingdom waters, controlled waters or, in relation to regulations 4 to 7, any other waters which are sea; and
- (c) fixed or floating installations in controlled waters.

Disposal of Garbage outside Special Areas

4. The disposal of any plastics from a ship to the sea outside any Special Area is prohibited.
5. Subject to regulation 7 below, the disposal of garbage other than plastics from a ship into the sea outside any Special Area is prohibited except where it is made as far from the nearest land as is practicable, and
 - (a) in the case of dunnage, lining and packing materials which will float, not less than 25 miles from the nearest land; or
 - (b) in the case of food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse, not less than 12 miles or, if such wastes and other garbage have been ground or comminuted to the required standard, not less than 3 miles from the nearest land.

Disposal of Garbage within Special Areas

- 6.—(1) Subject to paragraph (2) below, the disposal of any garbage from a ship into the sea within any Special Area is prohibited.
- (2) The disposal of food wastes from a ship into the sea within any Special Area except the Antarctic area is permitted if the disposal is made as far as practicable, and in any case not less than 12 miles, from the nearest land.

Disposal of garbage into the sea within 500 metres of fixed or floating installations

7. The disposal of any garbage into the sea from a fixed or floating installation, or from any other ship alongside or within 500 metres of such an installation, is prohibited except that food wastes which have been comminuted or ground to the required standard may be disposed of into the sea from such installations or ships if the installation in question is located more than 12 miles from the nearest land.

Restriction on United Kingdom ships entering the Antarctic area

8. A United Kingdom ship shall not enter the Antarctic area unless—
 - (a) it has sufficient capacity for the retention on board of all garbage while operating in the area; and
 - (b) it has concluded arrangements for the discharge of retained garbage at a reception facility after it has left the area.

Placards

- 9.—(1) Every ship of 12 metres or more in overall length shall display placards which notify the crew and passengers, if any, of the disposal requirements of regulations 4 to 7 above.
- (2) In the case of a United Kingdom ship, the information on the placards shall be written in English and, if different, the working language of the crew.
- (3) In the case of a ship which is not a United Kingdom ship, the information on the placards shall be written in an official language of the State whose flag the ship is entitled to fly and, where the ship is engaged on voyages to ports or offshore terminals under the jurisdiction of a Party to the Convention other than its flag State, in English or French.
 - (a) (4) (a) Every fixed or floating installation shall display placards which notify all persons on board of the disposal requirements of regulation 7 above.

- (b) The information on such placards shall be written in English and, if different, the working language of the crew.

Garbage Management Plan

10.—(1) This regulation applies to—

- (a) every ship of 400 tons gross tonnage or above;
- (b) every ship which is certified to carry 15 persons or more; and
- (c) every fixed or floating installation.

(2) Any ship or installation to which this regulation applies shall carry a garbage management plan which shall—

- (a) provide written procedures for collecting, storing, processing and disposing of garbage, including the use of equipment on board;
- (b) designate the person in charge of carrying out the plan;
- (c) be in accordance with the guidelines developed by the Organisation and set out in Merchant Shipping Notice MSN No. 1720; and
- (d) be in the working language of the crew.

(3) The crew of a ship or installation which is required to carry a garbage management plan under paragraph (2) above shall follow that plan.

Garbage Record Book

11.—(1) This regulation applies to—

- (a) every ship of 400 tons gross tonnage or above;
- (b) every ship certified to carry 15 persons or more which is engaged on voyages to ports or offshore terminals under the jurisdiction of a Party to the Convention other than its flag State; and
- (c) every fixed and floating installation.

(2) Any ship or installation to which this regulation applies shall carry a garbage record book, whether as part of the ship's official logbook or otherwise, in the form specified in Merchant Shipping Notice MSN No. 1720.

(3) The officer in charge of a discharge operation, or incineration, shall make and sign an entry in the garbage record book in respect of the discharge or completed incineration on the date of the discharge or incineration in question.

(4) Such entries in the garbage record book shall include—

- (a) the date and time the discharge or incineration occurred;
- (b) the position of the ship at the time of the discharge or incineration; and
- (c) a description of, and the estimated amount of, the garbage discharged or incinerated.

(5) If a discharge, escape or accidental loss within the meaning of regulation 20(2)(a) below occurs an entry shall be made in the garbage record book of the circumstances of and the reasons for the discharge, escape or accidental loss.

(6) Any entries made in the garbage record book shall—

- (a) in the case of a United Kingdom ship, be in English and, if different, the working language of the crew;
- (b) in the case of a ship which is not a United Kingdom ship, be in an official language of the State whose flag the ship is entitled to fly and in English or French. The entries in

the official language of the State whose flag the ship is entitled to fly shall prevail in a discrepancy between the different language entries; and

- (c) in the case of an installation, be in English and, if different, the working language of the crew.
- (7) Each completed page of the garbage record book shall be signed by the master of the ship or the installation manager (as appropriate).
- (8) The garbage record book shall—
- (a) be kept on board the ship or installation and in such a place as to be available for inspection in a reasonable time; and
 - (b) be preserved by the ship's or installation's owner for a period of two years after the final entry is made in it.
- (9) The Secretary of State may waive the requirement for a garbage record book in respect of—
- (a) any ship certified to carry 15 persons or more engaged on a voyage of one hour or less in duration; or
 - (b) any fixed or floating installation.

Inspection of ships and installations

12.—(1) An inspector may inspect any ship to which these Regulations apply in any port in the United Kingdom.

(2) An inspector may investigate any operation regulated by these Regulations if he has clear grounds for believing that the master or crew are not familiar with the ship's on-board procedures for preventing pollution by garbage.

(3) If the inspector is satisfied, following any such inspection of a ship, that either the master or crew are not familiar with the ship's on-board procedures for preventing pollution by garbage he shall take such steps as he considers necessary, including detaining the ship, to ensure that the ship does not sail until the situation has been brought into accordance with the requirements of these Regulations.

(4) The Secretary of State may appoint any person, either generally or in relation to a particular case, as an inspector under these Regulations in relation to fixed and floating platforms.

(5) Any person appointed under paragraph (4) above may at all reasonable hours go on board a platform and inspect it for the purpose of seeing that the provisions of these Regulations are duly complied with.

Inspection of Garbage Record Books

13.—(1) An inspector may require—

- (a) in respect of a ship to which regulation 11 applies, the owner, master or any member of the crew of the ship, while the ship is in any United Kingdom port or offshore terminal; and
- (b) in respect of an installation to which regulation 11 applies, the installation manager or any member of the crew of the installation,

to produce the garbage record book for inspection.

(2) An inspector may make a copy of any entry in the garbage record book and may require the master of the ship or installation manager to certify that the copy is a true copy of such an entry.

(3) Any copy so made which has been certified by the master of the ship or installation manager as a true copy shall be admissible in any judicial proceedings as evidence of the facts stated therein.

(4) The inspection of a garbage record book and the taking of a certified copy by the inspector under this regulation shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Offences

14.—(1) Any breach of the requirements of these Regulations (other than of the requirements of regulations 4, 5, 6 or 7)—

- (a) in respect of a ship, shall be an offence on the part of the owner, manager, demise charterer and master of the ship; and
- (b) in respect of an installation, shall be an offence on the part of the owner and installation manager,

punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine.

(2) Any breach of the requirements of regulation 4, 5, 6 or 7 above—

- (a) in respect of a ship, shall be an offence on the part of the owner, manager, demise charterer and master of the ship; and
- (b) in respect of an installation, shall be an offence on the part of the owner and installation manager,

and section 131(3) of the Act⁽¹²⁾ shall apply as it applies to an offence under that section, so that each of them shall be liable on summary conviction to a fine not exceeding £25,000 or on conviction on indictment to a fine.

15.—(1) Section 143(6) of the Act (which provides for service of documents on foreign companies required or authorised by any statutory provision in connection with proceedings for an offence under section 131) shall apply to proceedings for an offence under regulations 4, 5, 6 or 7 above as it applies to proceedings for an offence under section 131 of the Act, as if—

- (a) in respect of an offence in respect of a ship, for the word “owner” there were substituted the words “owner, manager or demise charterer”; and
- (b) in respect of an offence in respect of an installation—
 - (i) for the word “ship” on the first occasion it occurs there were substituted the word “installation”; and
 - (ii) for the words “master of the ship” there were substituted the words “installation manager”.

(2) Section 146 of the Act (which provides for the enforcement and application of fines imposed for offences under Chapter II of Part VI) shall apply to an offence under regulations 4, 5, 6 or 7 above in respect of a ship as it applies to an offence under Chapter II of the Act, as if, in paragraph (1), for the words “owner or master” there were substituted the words “owner, manager, demise charterer or master”.

Power to Detain

16. Where the steps taken by an inspector under regulation 12(3) involve detention of the ship, section 284(1)—(6) and (8) of the Act (which relates to the detention of a ship) shall have effect in relation to that ship, as if for the words “this Act” wherever they appear there were substituted the words “the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1998.”

(12) 1995 c. 21; section 131(3) was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 7(1).

17.—(1) Where a harbour master or an inspector has reason to believe that the owner, manager, demise charterer or master of a ship has committed an offence under regulations 4, 5, 6 or 7 above by the disposal from the ship of garbage the harbour master, if the disposal was into the waters of the harbour, or an inspector, if the disposal was in any other waters, may detain the ship.

(2) Section 284 of the Act shall have effect in relation to a detention under paragraph (1) above as if—

- (a) subsections (1), (6) and (7) were omitted;
- (b) in subsection (2), if the ship is detained by a harbour master, the reference to competent authority were to the harbour authority; and
- (c) in subsection (4), the persons in relation to whom that subsection applies were, if the ship is detained by a harbour master, the harbour master or any person acting on his behalf or, if the ship is detained by an inspector, the inspector or any person acting on his behalf.

(3) Section 144(3) to (8) of the Act⁽¹³⁾ (which relates to the detention of a ship) shall apply to a detention under paragraph (1) above as it applies to a detention under section 144(1) of the Act, as if—

- (a) in paragraph (3), after the words “harbour master” there were inserted the words “or an inspector”;
- (b) in paragraph (4)—
 - (i) after the word “harbour master”, there were inserted the words “or an inspector”;
 - (ii) in sub-paragraphs (b), (c) and (d), for the words “owner or master” wherever they appear there were substituted the words “owner, manager, demise charterer or master”; and
 - (iii) in sub-paragraph (c)(i) and (ii)—
 - (aa) if the ship is detained by an inspector, for the words “harbour authority” wherever they appear there were substituted the words “Secretary of State”; and
 - (bb) for “£255,000” in both places where it occurs there were substituted “£30,000”;
- (c) in paragraph (5)—
 - (i) after the words “harbour authority” there were inserted the words “or Secretary of State (as appropriate)”; and
 - (ii) in sub-paragraph (b), for the words “master or owner” there were substituted the words “owner, manager, demise charterer or master”; and
- (d) in paragraph 6, for the words “master or owner” wherever they appear there were substituted the words “owner, manager, demise charterer or master”.

Restriction on jurisdiction over offences outside United Kingdom limits

18.—(1) Proceedings in respect of a ship other than a United Kingdom ship for an offence of contravening any provision of regulations 4 to 6 above which relates to a breach of the said provisions committed in the internal waters, territorial sea or exclusive economic zone of another State (in this regulation “the other State”) shall not be instituted in the United Kingdom unless—

- (a) the other State, the flag State or a State damaged or threatened by the breach of the Regulations requests that proceedings be taken; or

⁽¹³⁾ Section 144(4)(c)(i) and (ii) was amended by the Merchant Shipping and Maritime Security Act 1997, section 7(3).

(b) the breach of the Regulations has caused or is likely to cause pollution in United Kingdom waters or controlled waters.

(2) Where such proceedings have been instituted but not concluded they shall be suspended upon request by the other State and the Secretary of State shall transmit all the evidence and court records and documents relating to the case, together with any sum paid or security given, to the other State.

Suspension of proceedings at flag State request

19.—(1) This regulation applies to proceedings instituted but not concluded in the United Kingdom in respect of a breach of the Regulations committed outside United Kingdom waters by a ship other than a United Kingdom ship.

(a) (2) (a) Any such proceedings shall be suspended if the court is satisfied that the flag State has instituted proceedings corresponding to the proceedings in the United Kingdom in respect of the breach of the Regulations within six months of the institution of the proceedings in the United Kingdom.

(b) Subparagraph (a) above does not apply—

(i) where the breach of the Regulations resulted in major damage to the United Kingdom; or

(ii) the Secretary of State certifies that the flag State has repeatedly disregarded its obligations to enforce effectively the requirements of the Convention in respect of its ships.

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

Defences

20.—(1) In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove—

(a) that he took all reasonable steps and exercised all due diligence to ensure that the Regulations were complied with;

(b) that the disposal was necessary for the purpose of securing the safety of the ship or installation or those on board, or of saving life at sea; or

(c) that the escape of garbage resulted from damage to the ship or installation or the ship's or installation's equipment and that all reasonable precautions were taken before and after the damage occurred to prevent or minimise the escape.

(2) Without prejudice to paragraph (1) above, it shall be a defence for a person charged to prove—

(a) in any proceedings in respect of a ship for contravening regulation 4 or 6 above by the disposal into the sea of synthetic fishing nets or synthetic material incidental to the repair of such nets, that the disposal was an accidental loss and that all reasonable precautions were taken to prevent the loss; or

(b) in any proceedings in respect of a ship for contravening any provision of regulations 4 to 6 above, that—

(i) the ship is not a United Kingdom ship;

(ii) the offence took place outside United Kingdom waters and controlled waters; and

(iii) the ship was in a port in the United Kingdom at the time of institution of proceedings by reason only of stress of weather or any other reason beyond the control of the master, owner, charterer or manager (if any).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Glenda Jackson
Parliamentary Under-Secretary of State
Department of the Environment, Transport and
the Regions

1st June 1998

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate, with amendments, the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988 and the Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulations 1993. The Regulations implement annex V to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) as amended.

In addition to minor and drafting amendments, the following are the principal changes of substance:

- (a) ships to which the Regulations apply are subject to inspection while in United Kingdom ports (regulation 12);
- (b) in respect of certain vessels and platforms, placards are to be displayed informing the persons on board of the requirements of the Regulations and garbage management plans and record books are to be carried. Garbage record books are to be subject to inspection and inspectors may take copies of any entry in such a book (regulations 11 and 13);
- (c) Section 131(3), as modified by the Merchant Shipping (Prevention of Pollution by Garbage) Order 1988 (as amended by S.I. 1997/2569 and S.I. 1998/254), sections 143(6), 144 and 146 of the Merchant Shipping Act 1995, as modified by these Regulations, are applied to an offence of contravening regulations 4 to 7 (regulations 14(2), 15(1) and (2), 17(3)); and
- (d) extensions of jurisdiction permitted by the United Nations Law of the Sea Convention (UNCLOS) (Cmnd 8941). In particular, discharges by ships other than United Kingdom ships into the United Kingdom's controlled waters beyond the territorial sea and, subject to certain restrictions on institution of proceedings contained in regulation 18, elsewhere, are prohibited. Where proceedings for such a discharge are instituted they may be suspended if the flag State institutes proceedings (regulation 19). The Regulations also prohibit disposal of garbage from fixed or floating installations in the United Kingdom's controlled waters (regulation 7).

A compliance cost assessment has been prepared and copies may be obtained from the Maritime and Coastguard Agency, Zone 2/30 Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone: 01703 329191). A copy has been placed in the library of each House of Parliament.

Merchant Shipping Notices are obtainable from Eros Marketing Support Services, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesey, Surrey KT8 0BN. Copies of the MARPOL Convention and UNCLOS may be obtained from the International Maritime Organisation at 4 Albert Embankment, London SE1 75R.