L.N. 304 of 2003

MERCHANT SHIPPING ACT
(CAP. 234)

Merchant Shipping (Prevention of Pollution by Garbage) Regulations, 2003

IN exercise of the powers conferred by articles 308A and 374 of the Merchant Shipping Act, the Minister for Transport and Communications has made the following regulations:–

Citation and commencement.

1. (1) The title of these regulations is the Merchant Shipping (Prevention of Pollution by Garbage) Regulations, 2003.

(2) These regulations shall come into force on such date as the Minister responsible for shipping may by notice in the Gazette appoint and different dates may be so appointed for different purposes of the said regulations.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires –

"the Act" means the Merchant Shipping Act;

"Antarctic Area" means the sea area south of latitude 60° South

"from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and Contiguous Zone 1958, except that for the purposes of these regulations, "from the nearest land" off the north-eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in

latitude 11° 00' S, longitude 142° 08' E
to a point latitude 10° 35' S, longitude 141° 55' E,
thence to a point latitude 10° 00' S, longitude 142° 00' E,
thence to a point latitude 09° 10' S, longitude 143° 52' E,

thence to a point latitude 09° 00' S, longitude 144° 30' E,
thence to a point latitude 10° 41' S, longitude 145° 00' E,
thence to a point latitude 13° 00' S, longitude 145° 00' E,
thence to a point latitude 15° 00' S, longitude 146° 00' E,
thence to a point latitude 17° 30' S, longitude 147° 00' E,
thence to a point latitude 21° 00' S, longitude 152° 55' E,
thence to a point latitude 24° 30' S, longitude 154° 00' E,
thence to a point on the coast of Australia in
latitude 24° 42' S, longitude 153° 15' E;

"garbage" means all kinds of victual, domestic and operational waste 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" has the same meaning as is assigned to it in MARPOL 73/78;

"Malta" has the same meaning as is assigned to it in article 124 of the Constitution of Malta;

"Maltese ship" has the same meaning as is assigned to it in article 3 of the Act;

"MARPOL 73/78" means the "International Convention for the Prevention of Pollution from Ships" signed in London on the 2 November, 1973, including its Protocol of 1978 and any other amendment or Protocol related thereto, as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Maritime Organisation or determined, laid down, prescribed, set or specified by the Registrar-General in terms of these regulations;

"MARPOL Annex V" means "Annex V of MARPOL 73/78: *Regulations for the Prevention of Pollution by Garbage from Ships"* including any other amendment related thereto, as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto, adopted or developed by the International Maritime Organisation or determined, laid down, prescribed, set or specified by the Registrar-General in terms of these regulations or of MARPOL Annex V;

"mile" means an international nautical mile that is to say a distance of 1852 metres;

"noxious liquid substances" has the same meaning as is assigned to it in MARPOL 73/78;

"oil" and "oily mixtures" have the same meanings as are respectively assigned to them in MARPOL 73/78;

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

"plastics" includes, but is not limited to, synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products which may contain toxic or heavy metal residues;

"reception facility" means facility into which ships may discharge garbage;

"required standard": to the 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;

"sewage" has the same meaning as is assigned to it in MARPOL 73/78;

"ship" has the same meaning as is assigned to it in the Act;

"Special Area" has the same meaning as is assigned to it in MARPOL Annex V. Any area defined as a Special Area by the said Annex, as may be amended from time to time by the International Maritime Organisation, is a Special Area for the purpose of these regulations;

"State Party" means a State that at the relevant time has ratified or acceded to, as the case may be, MARPOL 73/78.

Applicability of regulations.

3. These regulations apply to Maltese ships wherever they may be and to other ships while they are in Malta.

Disposal of garbage outside Special Areas.

4. (1) The disposal of all plastics from a ship into the sea outside Special Areas is prohibited.

(2) The disposal from a ship into the sea outside Special Areas, of garbage other than plastics is prohibited except where it is made as far as practicable from the nearest land 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.

When the garbage is mixed with other discharges having different disposal or discharge requirements under Maltese law or under MARPOL 73/78, the more stringent requirements shall apply.

Disposal of garbage within Special Areas.

5. (1) The disposal into the sea within Special Areas, of any garbage other than food wastes is prohibited.

(2) The disposal of food wastes into the sea within a Special Area is prohibited except where it is made as far as practicable from land but in any case not less than 12 miles from the nearest land.

(3) Before entering the Antarctic Area, Maltese ships shall have sufficient capacity on board for the retention of all garbage while operating in the area and shall have concluded arrangements to discharge garbage at a reception facility after leaving the area.

(4) When the garbage is mixed with other discharges having different disposal or discharge requirements under Maltese law or under MARPOL 73/78, the more stringent requirements shall apply.

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

6. The disposal into the sea of any garbage from a ship which is a fixed or floating platform engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources, or from any ships alongside or within 500 metres of such a platform, is prohibited provided that food wastes which have been comminuted or ground to the required standard may be disposed of into the sea from such platforms or ships if the platform in question is located more than 12 miles from the nearest land.

Placards.

7. (1) Every ship of 12 metres or more in length overall shall display placards which notify the crew and passengers of the disposal requirements of regulations 4 and 5, as applicable.

(2) The placards shall be written in the working language of the ship's personnel and, for ships engaged in voyages to ports and offshore terminals under the jurisdiction of State Parties, shall also be in English, French or Spanish.

Garbage management plans.

8. Every ship of 400 gross tonnage and above, and every ship which is certified to carry 15 persons or more, shall carry a garbage management plan which the crew shall follow. This plan shall provide written procedures for collecting, storing, processing and disposing of garbage, including the use of the equipment on board. It shall also designate the person in charge of carrying out the plan. Such a plan shall be written in the working language of the crew and be in accordance with the *Guidelines for the Development of Garbage Management Plans*, developed by the International Maritime Organisation.

Garbage record keeping.

9. (1) Every ship of 400 gross tonnage and above, and every ship which is certified to carry 15 persons or more engaged in voyages to ports and offshore terminals under the jurisdiction of State Parties and every fixed and floating platform while engaged in exploration and exploitation of the sea-bed, shall maintain a Garbage Record Book. The Garbage Record Book, whether as a part of the ship's official log-book or otherwise, shall be in the relative form set out in the Appendix to MARPOL Annex V.

(2) Each discharge operation, or completed incineration, shall be recorded in the Garbage Record Book and signed for on the date of incineration or discharge by the officer in charge. Each completed page of the Garbage Record Book shall be signed by the master of the ship. The entries in the Garbage Record Book shall be at least in English, French or Spanish. Where the entries are also made in an official language of the State whose flag the ship is entitled to fly, these entries shall prevail in the case of a dispute or discrepancy.

(3) The entry for each incineration or discharge shall include date and time, position of the ship, description of the garbage and the estimated amount incinerated or discharged.

(4) In the event of the discharge, escape or accidental loss referred to in regulation 10, an entry shall be made in the Garbage Record Book of the circumstances of, and the reasons for, the loss.

(5) The Garbage Record Book shall be kept on board the ship and in such a place as to be available for inspection in a reasonable time. This document shall be made available to the competent authorities of the governments of State Parties, for the purposes of inspection and the possible making of copies of entries recorded therein. In the latter

case, the master of the ship is to certify that any such copies are true copies of such entries, if so required. Any copy so made, which has been certified by the master of the ship as a true copy of an entry in the ship's Garbage Record Book, shall be admissible in any judicial proceedings as evidence of the facts stated in the entry.

(6) The Garbage Record Book shall be preserved for a period of two years after the last entry is made on the record.

Exceptions.

10. (1) Regulations 4 to 6 shall not apply to:

(a) the disposal of garbage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

(b) the escape of garbage resulting from damage to a ship or its equipment provided that all reasonable precautions have been taken before and after the occurrence of the damage, for the purpose of preventing or minimising the escape; or

(c) the accidental loss of synthetic fishing nets, provided that all reasonable precautions have been taken to prevent such loss.

(2) Regulation 9 shall not apply to any ship engaged on voyages of 1 hour or less in duration, which is certified to carry 15 persons or more.

Exemptions.

11. The Minister responsible for shipping may grant exemptions from all or any of the provisions of these regulations, as may be specified in the exemption, for any class of cases or individual case on such terms if any, as he may specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Duty to ensure compliance.

12. It shall be the duty of the owner, of the company which has assumed the operation of the ship and the master to ensure that the ship is in compliance with the provisions and requirements of these regulations and such person, if in fault, shall be liable to the penalties provided for in the Merchant Shipping Act, and if no such penalty is provided, such person shall, for each offence, be liable to a fine (*multa*) not exceeding 500 units.

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