



# Merchant Shipping and Maritime Security Act 1997

## 1997 CHAPTER 28

### *Pollution control and marine safety*

VALID FROM 19/03/1997

#### **5 Waste reception facilities at harbours.**

In Part VI of the 1995 Act (prevention of pollution), after Chapter I there is inserted—

#### **“CHAPTER IA**

#### **WASTE RECEPTION FACILITIES AT HARBOURS**

##### **130A General.**

- (1) The Secretary of State may by regulations make such provision as he considers appropriate in relation to—
  - (a) the provision at harbours in the United Kingdom of facilities for the reception of waste from ships (in this Chapter referred to as “waste reception facilities”); and
  - (b) the use of waste reception facilities provided at such harbours.
- (2) In making the regulations, the Secretary of State shall take into account the need to give effect to provisions—
  - (a) which are contained in any international agreement mentioned in section 128(1) which has been ratified by the United Kingdom; and
  - (b) which relate to waste reception facilities.

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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping and Maritime Security Act 1997, Section 5. (See end of Document for details)*

- (3) Sections 130B to 130D make further provision with respect to the regulations that may be made under this section.

### **130B Waste management plans.**

- (1) The regulations may make provision requiring a harbour authority for a harbour in the United Kingdom—
- (a) in such circumstances as may be prescribed, to prepare a plan with respect to the provision and use of waste reception facilities at the harbour; and
  - (b) to submit the plan to the Secretary of State for approval.
- (2) The regulations may make provision requiring a person—
- (a) if directed to do so by the Secretary of State, to prepare a plan with respect to the provision and use of waste reception facilities at any terminals operated by him within a harbour which is in the United Kingdom and is specified in the direction; and
  - (b) to submit the plan to the Secretary of State for approval.
- (3) For the purposes of this Chapter—
- (a) “terminal” means any terminal, jetty, pier, floating structure or other works within a harbour at which ships can obtain shelter or ship and unship goods or passengers; and
  - (b) a person operates a terminal if activities at the terminal are under his control.
- (4) In the following provisions of this section, “waste management plan” means a plan of a description mentioned in subsection (1) or (2) above.
- (5) The regulations may make provision with respect to the form and content of waste management plans and may in particular require such plans to include—
- (a) proposals as to the information to be provided about waste reception facilities to those who are expected to use them;
  - (b) proposals designed to ensure that adequate provision will be made for the disposal of waste deposited in waste reception facilities; and
  - (c) proposals about how costs incurred in establishing and running waste reception facilities will be recovered.
- (6) The regulations may require a person preparing a waste management plan to have regard to such matters as the Secretary of State may prescribe or in a particular case direct.
- (7) The regulations may make provision as to the procedures to be followed in connection with waste management plans and may in particular—
- (a) require a person preparing a waste management plan to consult such persons as the Secretary of State may prescribe or in a particular case direct;
  - (b) enable the Secretary of State to approve waste management plans with or without modification or to reject such plans;
  - (c) enable the Secretary of State, if he is satisfied that a person who is required to prepare a waste management plan is not taking any

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steps necessary in connection with the preparation of the plan, to prepare such a plan;

- (d) require harbour authorities and persons operating terminals to implement waste management plans once approved, or to take such steps as the Secretary of State may in a particular case direct for the purpose of securing that approved plans are implemented;
- (e) enable waste management plans, in such circumstances as may be prescribed, to be withdrawn, altered or replaced.

### 130C Charges for and use of waste reception facilities.

- (1) The regulations may make provision enabling a statutory harbour authority, on levying ship, passenger and goods dues, to impose charges for the purpose of recovering the whole or a part of the costs of the provision by or on behalf of the authority of waste reception facilities at the harbour.
- (2) The regulations may make provision requiring the master of a ship—
  - (a) if reasonably required to do so by a Departmental officer, or
  - (b) in such other circumstances as may be prescribed,to deposit any waste carried by the ship, or any prescribed description of such waste, in waste reception facilities provided at a harbour in the United Kingdom.
- (3) The regulations may make provision—
  - (a) for the reference to arbitration of questions as to whether requirements made under regulations made in pursuance of subsection (2)(a) above were reasonable, and
  - (b) for compensation to be payable by the Secretary of State where a requirement is found to have been unreasonable.
- (4) The regulations may make—
  - (a) provision prohibiting the imposition by persons providing waste reception facilities at harbours in the United Kingdom of charges for the depositing of waste, or any prescribed description of waste, in the facilities; or
  - (b) provision authorising the imposition by such persons of such charges subject to such restrictions as may be prescribed.
- (5) The regulations may provide for charges to be imposed by virtue of subsection (4)(b) above—
  - (a) even though the charges are for the depositing of waste in compliance with a requirement imposed by virtue of subsection (2) above; and
  - (b) even though charges are also imposed by virtue of subsection (1) above.
- (6) Subsections (7) to (9) below apply if the regulations make provision enabling a statutory harbour authority to impose charges of a description mentioned in subsection (1) above.
- (7) The regulations may require information about the charges to be published in a way that is designed to bring the charges to the notice of persons likely to be affected.

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- (8) The regulations may provide for the charges to be reduced at the instance of the Secretary of State following the making of an objection by a person of a prescribed description.
- (9) Regulations made by virtue of subsection (8) above may in particular make provision which corresponds to that made by section 31(3) to (12) of the <sup>M1</sup>Harbours Act 1964.
- (10) The regulations may make provision as to the recovery of any charges imposed by virtue of this section.

### 130D Supplementary.

- (1) The regulations may provide that where a person contravenes a requirement under the regulations he is guilty of an offence and is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (2) The regulations may—
  - (a) provide for exemptions from any provision of the regulations;
  - (b) provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time;
  - (c) make different provision for different cases;
  - (d) include such incidental, supplemental and transitional provision as appears to the Secretary of State to be expedient.
- (3) Regulations under section 130A which contain any provision of a description mentioned in section 130C (whether or not they also contain other provision) shall not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by a resolution of each House of Parliament.
- (4) A statutory instrument containing regulations under section 130A to which subsection (3) above does not apply (including regulations which revoke provision of a description mentioned in section 130C but do not contain any other provision made by virtue of section 130C) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### 130E Interpretation of Chapter IA.

In this Chapter—

“prescribe” means prescribe by regulations;

“ship, passenger and goods dues” has the same meaning—

- (a) in relation to Great Britain, as in the <sup>M2</sup>Harbours Act 1964; and
- (b) in relation to Northern Ireland, as in the <sup>M3</sup>Harbours Act (Northern Ireland) 1970;

“waste reception facilities” has the meaning given by section 130A(1).”

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**Marginal Citations**

**M1** 1964 c. 40.

**M2** 1964 c. 40.

**M3** 1970 c. 1 (N.I.).

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