

---

STATUTORY INSTRUMENTS

---

**1997 No. 3018**

**MERCHANT SHIPPING**

**The Merchant Shipping (Port Waste Reception Facilities) Regulations 1997**

<i>Made</i>	- - - -	<i>16th December 1997</i>
		<i>22nd December</i>
<i>Laid before Parliament</i>		<i>1997</i>
<i>Coming into force</i>	- -	<i>27th January 1998</i>

The Secretary of State for Transport, after consulting with the organisations referred to in section 306(4) of the Merchant Shipping Act 1995<sup>(1)</sup>, in exercise of the powers conferred by—

- (i) sections 130A (1) and (2), 130B(1), (2), (5) – (7) and 130D(1) and (2) of that Act<sup>(2)</sup>;
- (ii) article 2 of the Merchant Shipping (Prevention of Pollution by Garbage) Order 1988<sup>(3)</sup>; and
- (iii) section 302(1) of the said Act of 1995,

and of all other powers enabling him in that behalf, with the consent of the Treasury in so far as the Regulations are made under section 302(1) of the said Act of 1995, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Merchant Shipping (Port Waste Reception Facilities) Regulations 1997 and shall come into force on 27th January 1998.

**Interpretation**

2.—(1) In these Regulations—

“adequate” means, in relation to waste reception facilities for prescribed waste from ships, adequate to receive prescribed waste from ships using the harbour or terminal in question without causing undue delay to, and according to the needs of, those 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;

---

(1) 1995 c. 21. Section 306(4) was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 6, paragraph 18.  
(2) Sections 130A, 130B and 130D were added by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 5.  
(3) S.I.1988/2252, amended by S.I. 1993/1581 and 1997/2569.

“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;

“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;

“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 document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“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(4);

“oil” and “oily mixtures” have the meanings respectively given to them in the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996(5);

“operational waste” 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;

“prescribed wastes” means any waste of the following descriptions:

- (a) garbage;
- (b) oil and oily mixtures; and
- (c) noxious liquid substances.

(2) Any approval given pursuant to these Regulations shall be given in writing and shall specify the conditions (if any) on which it is given.

### **Application**

3. These Regulations apply to any harbour or terminal within a harbour in the United Kingdom.

### **Requirement to provide adequate port waste reception facilities**

4.—(1) Every harbour authority in respect of a harbour and terminal operator in respect of a terminal to which these Regulations apply shall provide adequate facilities for the reception of prescribed wastes from ships using the harbour or terminal.

(2) In assessing the adequacy of the waste reception facilities provided in its harbour or terminal the relevant harbour authority or terminal operator shall have regard to—

- (a) the Secretary of State’s guidance as laid down in Merchant Shipping Notice M 1462; and
- (b) any waste management plan approved in relation to the harbour or terminal pursuant to regulation 10 below or prepared by the Secretary of State pursuant to regulation 11 below.

5. For the purposes of regulation 4 above the powers of a harbour authority or terminal operator to provide waste reception facilities shall include power to join with any other person in providing them, and references in these Regulations to the provision of such reception facilities by a harbour authority or terminal operator shall be construed accordingly; and any such power shall also include power to arrange for the provision of such reception facilities by any other person.

---

(4) S.I. 1996/3010.

(5) S.I. 1996/2154.

### **Direction to provide adequate port waste reception facilities**

6. Where in respect of any harbour or terminal it appears to the Secretary of State, after consultation with the relevant harbour authority or terminal operator, that—

- (a) the harbour or terminal has no waste reception facilities for the reception of prescribed wastes from ships; or
- (b) if the harbour or terminal has such waste reception facilities, those facilities are not adequate,

the Secretary of State may direct the harbour authority or terminal operator to provide, or arrange for the provision of, such waste reception facilities as may be specified in the direction.

### **Use of port waste reception facilities**

7. Any waste reception facilities provided by, or by arrangement with, a harbour authority or terminal operator shall be open to all ships which in the opinion of the harbour authority or terminal operator are using the harbour or terminal for a primary purpose other than to utilise the reception facilities, on payment of any charges and compliance with any reasonable conditions imposed.

### **Requirement on a harbour authority to prepare a waste management plan**

8.—(1) Without prejudice to regulation 4(1), every harbour authority in respect of a harbour to which these Regulations apply shall prepare a waste management plan with respect to the provision and use of facilities for the reception of prescribed wastes from ships using the harbour.

(2) In preparing a waste management plan for the purposes of paragraph (1) above a harbour authority shall—

- (a) consult such persons as the Secretary of State may prescribe in Merchant Shipping Notice MSN 1709 or in a particular case direct; and
- (b) comply with the other requirements specified in Merchant Shipping Notice MSN 1709.

### **Direction to a terminal operator to prepare a waste management plan**

9. The Secretary of State may direct that a terminal operator shall prepare a waste management plan with respect to the provision and use of facilities for the reception of prescribed wastes from ships using any terminal operated by the terminal operator which is within a harbour to which these Regulations apply and is specified in the direction.

### **Waste management plans to be submitted to the Secretary of State for approval**

10.—(1) Any waste management plan prepared pursuant to either regulation 8 above or a direction made under regulation 9 above shall be submitted to the Secretary of State for his approval in accordance with the procedure specified in Merchant Shipping Notice MSN 1709.

(2) The Secretary of State may either—

- (a) reject the plan submitted; or
- (b) approve the plan with or without modifications.

(3) A plan which has been approved by the Secretary of State pursuant to paragraph (2) above or prepared by the Secretary of State pursuant to regulation 11 below shall be implemented by the harbour authority or the terminal operator for the harbour or terminal to which the plan relates.

### **Power of Secretary of State to prepare a waste management plan**

11. If the Secretary of State is satisfied that a person who is required to prepare a waste management plan is not taking any steps necessary in connection with the preparation of the plan, the Secretary of State may prepare such a plan.

### **Direction to implement a waste management plan**

12. The Secretary of State may direct any harbour authority or terminal operator to take such steps as are specified for the purposes of securing the implementation of an approved waste management plan in respect of the relevant harbour or terminal.

### **Exemptions**

13.—(1) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations in respect of any harbour authority or terminal operator.

(2) Any exemptions granted under paragraph (1) above shall be given in writing.

### **Penalties**

14. Any harbour authority or terminal operator which fails to comply with—

- (a) any requirement of these Regulations in relation to the provision and use of waste reception facilities;
- (b) the requirements of regulation 10 above; or
- (c) any direction given pursuant to these Regulations in relation to the provision of waste reception facilities or the preparation or implementation of a waste management plan,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

### **Amendment of Fees Regulations**

15. In the Schedule to the Merchant Shipping (Fees) Regulations 1997<sup>(6)</sup>, after Part XII, there shall be added the following Part:

## **“PART XIII**

### **FEES IN RESPECT OF WASTE MANAGEMENT PLANS**

In this Part, “the Regulations” means the Merchant Shipping (Port Waste Reception Facilities) Regulations 1997.

<i>Service</i>	<i>Fee</i>
1. The Secretary of State’s approval of a waste management plan prepared by a harbour authority or terminal operator in respect of a harbour or terminal pursuant to regulation 10(2) of the Regulations.	£60 per hour

---

(6) S.I. 1996/3243, to which there are amendments not relevant to these Regulations.

---

<i>Service</i>	<i>Fee</i>
2. The preparation of a waste management plan in respect of a harbour or terminal by the Secretary of State pursuant to regulation 11 of the Regulations.	£60 per hour <sup>7</sup>

---

### **Revocations**

16. The following instruments are hereby revoked—

- (a) the Prevention of Pollution (Reception Facilities) Order 1984<sup>(7)</sup>; and
- (b) the Merchant Shipping (Reception Facilities for Garbage) Regulations 1988<sup>(8)</sup>

Signed by authority of the Secretary of State for Transport

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

13th December 1997

We consent to the making of these Regulations

*Graham Allen*  
*Jim Dowd*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

16th December 1997

---

(7) S.I. 1984/862.  
(8) S.I. 1988/2293.

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

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace with amendments the Prevention of Pollution (Reception Facilities) Order 1984 and the Merchant Shipping (Reception Facilities for Garbage) Regulations 1988 and amend the Merchant Shipping (Fees) Regulations 1996.

In addition to minor amendments, the Regulations make the following changes of substance. There is a requirement for harbour authorities to prepare a waste management plan (regulation 8) and a power whereby the Secretary of State may direct a terminal operator to prepare such a plan (regulation 9). The Secretary of State also has powers of direction in relation to the implementation of waste management plans (regulation 12).

Penalties are provided for failure to comply with certain requirements of the Regulations or any direction issued (regulation 14).

The amendment to the Merchant Shipping (Fees) Regulations 1996 provides for fees in connection with the preparation of waste management plans.

A compliance cost assessment has been produced and copies can be obtained from the Department of the Environment, Transport and the Regions, Zone 4/12, Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone: 0171 271 3898). A copy has been laid in the library of each House of Parliament.

Merchant Shipping Notices may be obtained from Eros Marketing Support Services, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesley, Surrey KT8 0BN. Copies of the IMDG Code may be obtained from the International Maritime Organisation at 4, Albert Embankment, London SE1 7SR.