



**POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES  
(MISCELLANEOUS) AMENDMENT ACT 1998**

**No. 65 of 1998**

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**ELIZABETHAE II REGINAE**

A.D. 1998

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**No. 65 of 1998**

**An Act to amend the Pollution of Waters by Oil and Noxious Substances Act 1987.**

[Assented to 10 September 1998]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Pollution of Waters by Oil and Noxious Substances (Miscellaneous) Amendment Act 1998*.

(2) The *Pollution of Waters by Oil and Noxious Substances Act 1987* is referred to in this Act as "the principal Act".

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Amendment of long title**

3. The long title of the principal Act is amended by striking out "noxious".

**Amendment of s. 1—Short title**

4. Section 1 of the principal Act is amended by striking out "*Pollution of Waters by Oil and Noxious Substances Act 1987*" and substituting "*Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987*".

**Amendment of s. 3—Interpretation**

5. Section 3 of the principal Act is amended—

(a) by striking out, from the definition of "the 1973 Convention" in subsection (1) "Annexes III, IV and V" and substituting "Annex IV";

(b) by striking out from the definition of "the 1978 Protocol" in subsection (1) "Annexes III, IV and V to it" and substituting "Annex IV".

**Repeal of s. 10**

6. Section 10 of the principal Act is repealed.

**Amendment of s. 10A**

7. Section 10A of the principal Act is amended—

- (a) by striking out the definition of "prescribed incident" in subsection (2) and substituting the following definition:

**"prescribed incident"**, in relation to a ship, means—

- (a) a discharge from the ship of oil or an oily mixture, not being a discharge to which section 8(4) applies; or
- (b) an incident involving the probability of a discharge from the ship of oil or an oily mixture, not being a discharge to which section 8(4) would apply.;

(b) by inserting in subsection (4)(a) ", in accordance with this Act," after "followed";

(c) by striking out subsection (5).

**Repeal of s. 20**

8. Section 20 of the principal Act is repealed.

**Insertion of Parts 3AA and 3AAB**

9. The following Parts are inserted in the principal Act after section 24:

**PART 3AA  
PREVENTION OF POLLUTION BY PACKAGED HARMFUL  
SUBSTANCES**

**Interpretation**

24AA. (1) In this Part—

**"Annex III"** means Annex III to the Convention.

(2) Unless the contrary intention appears, an expression that is used in this Part and in Annex III (whether or not a particular meaning is assigned to it by that Annex) has, in this Part, the same meaning as in that Annex.

**Prohibition of discharge of harmful substances into State waters**

24AAB. (1) Subject to subsection (3), if a discharge of a harmful substance carried as cargo in packaged form occurs from a ship into State waters, the master and the owner of the ship are each guilty of an offence.

Maximum penalty: (a) if the offender is a natural person—\$50 000; or

(b) if the offender is a body corporate—\$250 000.

(2) Subsection (1) does not apply—

(a) to the discharge of a harmful substance from a ship for the purpose of securing the safety of the ship and persons on board the ship or of saving life at sea; or

(b) where a harmful substance is washed overboard from a ship—

- (i) in accordance with regulations or orders made pursuant to regulations; or
- (ii) in circumstances where compliance with such regulations or orders would have impaired the safety of the ship or of persons on board the ship.

(3) In proceedings for an offence against subsection (1) in relation to a ship, it is sufficient for the prosecution to allege and prove that a discharge of a harmful substance referred to in subsection (1) occurred from the ship into State waters, but it is a defence if it is proved that, by virtue of subsection (2), subsection (1) does not apply in relation to the discharge.

### **PART 3AAB PREVENTION OF POLLUTION BY GARBAGE**

#### **Interpretation**

**24AAC.** (1) In this Part—

"Annex V" means Annex V to the Convention.

(2) Unless the contrary intention appears, an expression that is used in this Part and in Annex V to the Convention (whether or not a particular meaning is assigned to it by that Annex) has, in this Part, the same meaning as in that Annex.

#### **Prohibition of disposal of garbage into State waters**

**24AAD.** (1) Subject to this section, if any disposal of garbage occurs (whether intentional or not) from a ship into State waters, the master and the owner of the ship are each guilty of an offence.

Maximum penalty: (a) if the offender is a natural person—\$50 000; or  
(b) if the offender is a body corporate—\$250 000.

(2) Subsection (1) does not apply to—

- (a) the disposal of garbage from a ship for the purpose of securing the safety of the ship and persons on board the ship or of saving life at sea; or
- (b) the escape of garbage from a ship in consequence of damage to the ship or its equipment, if all reasonable precautions were taken before and after the occurrence of the damage for the purpose of preventing or minimising the escape of the garbage; or
- (c) the accidental loss of a synthetic fishing net, or synthetic material used in the repair of such a net, if all reasonable precautions were taken to prevent the loss; or

- (d) the disposal from a ship of dunnage, lining or packing materials that will float and are not plastics if the ship—
- (i) is as far as practicable from, and is at a distance of not less than 25 nautical miles from, the nearest land; and
  - (ii) is not alongside, or within 500 metres of, a fixed or floating platform engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources; or
- (e) the disposal from a ship of garbage other than plastics, garbage referred to in paragraph (d) or food wastes if the ship—
- (i) is as far as practicable from the nearest land; and
  - (ii) is at a distance of—
    - (A) not less than 12 nautical miles from the nearest land; or
    - (B) if the garbage is passed through a comminuter or grinder so that it is capable of passing through a screen with no opening greater than 25 millimetres—not less than 3 nautical miles from the nearest land; and
  - (iii) is not alongside, or within 500 metres of, a platform of a kind referred to in paragraph (d)(ii); or
- (f) the disposal of food wastes from a ship if—
- (i) the ship—
    - (A) is as far as practicable from, and is at a distance of not less than 12 nautical miles from, the nearest land; and
    - (B) is not alongside, or within 500 metres of, a platform of a kind referred to in paragraph (d)(ii); or
  - (ii) the conditions referred to in subparagraphs (i) and (ii)(B) of paragraph (e) are satisfied.

(3) However, where—

- (a) garbage is mixed with matter the discharge or disposal of which from a ship into State waters is prohibited under another Part unless certain conditions are complied with; and
- (b) the conditions referred to in paragraph (a) are more stringent than the conditions referred to in subsection (2),

subsection (1)—

- (c) applies to the disposal of the garbage from a ship despite the fact that the conditions referred to in subsection (2) have been complied with; but
- (d) does not apply to the disposal of the garbage from a ship if those more stringent requirements were complied with.

(4) In proceedings for an offence against subsection (1) in relation to a ship, it is sufficient for the prosecution to allege and prove that garbage was disposed of from the ship into State waters, but it is a defence if it is proved that, by virtue of subsection (2) or (3), subsection (1) does not apply in relation to the disposal.

(5) In this section—

"**plastics**" includes synthetic ropes, synthetic fishing nets, plastic garbage bags and plastic or synthetic strapping.

#### **Amendment of s. 25—Interpretation**

10. Section 25 of the principal Act is amended—

(a) by inserting after the definition of "**apparatus**" the following definitions:

"**garbage**" has the same meaning as it has in Part 3AAB;

"**harmful substance**" has the same meaning as it has in Part 3AA.;

(b) by inserting after the definition of "**oily mixture**" the following definition:

"**packaged form**" has the same meaning as it has in Part 3AA.

#### **Insertion of Division 1A**

11. The following Division is inserted after section 25 of the principal Act:

### **DIVISION 1A—REPORTING REQUIREMENTS**

#### **Duty to report certain incidents**

**25A.** (1) Where a prescribed incident occurs in relation to a ship in State waters, the master of the ship must, without delay, notify, in the prescribed manner, a prescribed officer of the incident.

Maximum penalty: \$50 000.

(2) In a prosecution of a person for an offence against subsection (1) in relation to a prescribed incident, it is a defence if the person proves that the person was unable to comply with the subsection in relation to the incident.

(3) Where a prescribed incident occurs in relation to a ship in State waters and—

- (a) the master of the ship is unable to comply with subsection (1) in relation to the incident; or
- (b) the incident occurs in circumstances in which the ship is abandoned,

the owner, charterer, manager or operator of the ship or an agent of the owner, charterer, manager or operator of the ship must, without delay, notify, in the prescribed manner, a prescribed officer of the incident and, if a prescribed officer is not so notified, each of those persons is guilty of an offence.

Maximum penalty: (a) if the offender is a natural person—\$50 000; or  
(b) if the offender is a body corporate—\$250 000.

(4) In a prosecution of a person for an offence against subsection (3) in relation to a prescribed incident in relation to a ship, it is a defence if the person proves—

- (a) that the person was not aware of the incident; or
- (b) in the case of a prescribed incident to which subsection (3)(a) applies, that the person neither knew nor suspected that the master of the ship was unable to comply with subsection (1) in relation to the incident.

(5) Subsection (4) must not be taken to limit by implication any defence that would, but for that subsection, be available to a person charged with an offence against subsection (3).

(6) A master of a ship who, pursuant to subsection (1), has notified a prescribed officer of the occurrence of a prescribed incident must, if so requested by a prescribed officer, furnish, within the prescribed time, a report in the prescribed form to a prescribed officer in relation to the incident.

Maximum penalty: \$20 000.

(7) Where subsection (3) applies in relation to a prescribed incident in relation to a ship, a person who, pursuant to that subsection, has notified a prescribed officer of the occurrence of the prescribed incident must, if so requested by a prescribed officer, furnish, within the prescribed time, a report in the prescribed form to a prescribed officer in relation to the incident.

Maximum penalty: \$20 000.

(8) A person must not, in a notice or report given or furnished pursuant to this section, make a statement that is false or misleading in a material particular.

Maximum penalty: \$20 000.

(9) A notice or report given or furnished pursuant to this section, must not, without the consent of the person charged, be admitted in evidence in a prosecution for an offence against section 8(1), 18(1) or 24AAB(1).

(10) In this section—

"prescribed incident" means—

- (a) a discharge or probable discharge of oil or an oily mixture (not being a discharge to which section 8(4) would apply); or

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- (b) a discharge or probable discharge of a liquid substance, or a mixture containing a liquid substance, carried as cargo or part cargo in bulk (not being a discharge to which section 18(4), (5), (6), (7), (8), (9), (10), (11) or (12) applies); or
- (c) a discharge or probable discharge of a harmful substance carried as cargo in packaged form (not being a discharge to which section 24AAB(2) applies).

**Amendment of s. 28—Removal and prevention of pollution**

**12. Section 28 of the principal Act is amended—**

(a) by inserting after paragraph (b) of subsection (1) the following paragraphs:

- (ba) a discharge of a harmful substance carried as cargo in packaged form, from a ship into State waters; or
- (bb) a disposal of garbage (whether intentional or not) from a ship into State waters,;

(b) by inserting in subsection (1)(c) "or disposal" after "discharge";

(c) by striking out from subsection (1)(d) "dispense" and substituting "disperse";

(d) by inserting in subsection (1)(d) "or disposed of" after "discharged";

(e) by inserting in subsection (1)(e) "or disposed of" after "discharged" (first occurring);

(f) by striking out from subsection (1)(e) "discharged" (second occurring) and substituting "discharge or disposal";

(g) by inserting in subsection (1)(f) "or disposal" after "discharge".

**Amendment of s. 29—Recovery of costs**

**13. Section 29 of the principal Act is amended—**

(a) by inserting in subsection (2)(a) "or disposal" after "discharge";

(b) by inserting in subsection (2)(b) "or disposal" after "discharge";

(c) by inserting in subsection (4) "or disposal" after "discharge";

(d) by inserting in subsection (6) "or disposal" after "discharge".

**Amendment of s. 32A—Recovery of damages**

**14. Section 32A of the principal Act is amended—**

(a) by inserting "or disposal" after "discharge" wherever it occurs;

(b) by striking out from subsection (1) "(including the Board)";



- (c) by striking out from paragraph (a) of the definition of "appropriate person" in subsection (2) "Part 2 or 3" and substituting "Part 2, 3, 3AA or 3AAB".

**Amendment of s. 33—Powers of inspectors**

15. Section 33 of the principal Act is amended—

- (a) by inserting in subsection (1)(b) "or disposal" after "discharge";
- (b) by inserting in subsection (1)(l) "or disposal" after "discharge" (twice occurring);
- (c) by inserting in subsection (2)(b) "or disposal" after "discharge";
- (d) by inserting in subsection (2)(f) "or disposal" after "discharge" (twice occurring).

**Amendment of schedule 1**

16. Schedule 1 of the principal Act is amended by inserting, after its present contents, the Annexes set out in schedule 1 of this Act.

**Further amendments of principal Act**

17. The principal Act is further amended as set out in schedule 2.

**SCHEDULE 1***Annexes to be Inserted in Schedule 1 of the Principal Act***Annex III****REGULATIONS FOR THE PREVENTION OF POLLUTION BY HARMFUL  
SUBSTANCES CARRIED BY SEA IN PACKAGED FORM****Regulation 1***Application*

(1) Unless expressly provided otherwise, the regulations of this Annex apply to all ships carrying harmful substances in packaged form.

(1.1) For the purposes of this Annex, "harmful substances" are those substances which are identified as marine pollutants in the International Maritime Dangerous Goods Code (IMDG Code).\*

(1.2) Guidelines for the identification of harmful substances in packaged form are given in the appendix to this Annex.

(1.3) For the purposes of this Annex, "packaged form" is defined as the forms of containment specified for harmful substances in the IMDG Code.

(2) The carriage of harmful substances is prohibited, except in accordance with the provisions of this Annex.

(3) To supplement the provisions of this Annex, the Government of each Party to the Convention shall issue, or cause to be issued, detailed requirements on packing, marking, labelling, documentation, stowage, quantity limitations and exceptions for preventing or minimising pollution of the marine environment by harmful substances."

(4) For the purposes of this Annex, empty packagings which have been used previously for the carriage of harmful substances shall themselves be treated as harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment.

(5) The requirements of this Annex do not apply to ships stores and equipment.

\*Refer to IMDG Code adopted by Organisation by resolution A.716(17), as it has been or may be amended by the Maritime Safety Committee; see IMO sales publications IMO-200E and IMO-210E.

**Regulation 2***Packing*

Packages shall be adequate to minimise the hazard to the marine environment, having regard to their specific contents.

**Regulation 3***Marking and labelling*

(1) Packages containing a harmful substance shall be durably marked with the correct technical name (trade names alone shall not be used) and, further, shall be durably marked or labelled to indicate that the substance is a marine pollutant. Such identification shall be supplemented where possible by any other means, for example, by the use of the relevant United Nations number.

(2) The method of marking the correct technical name and of affixing labels on packages containing a harmful substance shall be such that this information will still be identifiable on packages surviving at least three months' immersion in the sea. In considering suitable marking and labelling, account shall be taken of the durability of the materials used and of the surface of the package.

(3) Packages containing small quantities of harmful substances may be exempted from the marking requirements.\*

\*Refer to the specific exemptions provided for in the IMDG Code; see IMO sales publications IMO-200E and IMO-210E.

**Regulation 4\****Documentation*

(1) In all documents relating to the carriage of harmful substances by sea where such substances are named, the correct technical name of each such substance shall be used (trade names alone shall not be used) and the substance further identified by the addition of the words "MARINE POLLUTANT".

(2) The shipping documents supplied by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked, or labelled and in proper condition for carriage to minimise the hazard to the marine environment.

(3) Each ship carrying harmful substances shall have a special list or manifest setting forth the harmful substances on board and the location thereof. A detailed stowage plan which sets out the location of the harmful substances on board may be used in place of such special list or manifest. Copies of such documents shall also be retained on shore by the owner of the ship or his representative until the harmful substances are unloaded. A copy of one of these documents shall be made available before departure to the person or organisation designated by the port State authority.

(4) When the ship carries a special list or manifest or a detailed stowage plan, required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea, 1974, as amended, the documents required by this regulation may be combined with those for dangerous goods. Where documents are combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Annex.

\*Reference to "documents" in this regulation does not preclude the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques as an aid to paper documentation.

**Regulation 5***Stowage*

Harmful substances shall be properly stowed and secured so as to minimise the hazards to the marine environment without impairing the safety of the ship and persons on board.

**Regulation 6***Quantity limitations*

Certain harmful substances may, for sound scientific and technical reasons, need to be prohibited for carriage or be limited as to the quantity which may be carried aboard any one ship. In limiting the quantity, due consideration shall be given to size, construction and equipment of the ship as well as packaging and the inherent nature of the substances.

**Regulation 7***Exceptions*

(1) Jettisoning of harmful substances carried in packaged form shall be prohibited, except where necessary for the purpose of securing the safety of the ship or saving life at sea.

(2) Subject to the provisions of the present Convention, appropriate measures based on the physical, chemical and biological properties of harmful substances shall be taken to regulate the washing of leakages overboard provided that compliance with such measures would not impair the safety of the ship and persons on board.

**Regulation 8***Port State control on operational requirements\**

(1) A ship when in a port of another party is subject to inspection by officers duly authorised by such Party concerning operational requirements under this Annex, where there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by harmful substances.

(2) In the circumstances given in paragraph (1) of this regulation, the Party shall take such steps as will ensure that the ship shall not sail until the situation has been brought to order in accordance with the requirements of this Annex.

(3) Procedures relating to the port State control prescribed in article 5 of the present Convention shall apply to this regulation.

(4) Nothing in this regulation shall be construed to limit the rights and obligations of a Party carrying out control over operational requirements specifically provided for in the present Convention.

\*Refer to the Procedures for port State control adopted by the Organisation by resolution A.787(19); see IMO sales publication IMO 550 E.

## Appendix

## GUIDELINES FOR THE IDENTIFICATION OF HARMFUL SUBSTANCES IN PACKAGED FORM

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances:

- bioaccumulated to a significant extent and known to produce a hazard to aquatic life or to human health (Hazard Rating "+" in column A); or
- bioaccumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less (Hazard Rating "Z" in column A); or
- liable to produce tainting of seafood (Hazard Rating "T" in column A); or
- highly toxic to aquatic life, defined by an  $LC_{50/96}$  hour less than 1 ppm (Hazard rating "4" in column B).

\*Reference is made to the Composite List of Hazard Profiles, prepared by the IMO/FAO/UNESCO/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) which is circulated annually by the Organisation by means of BLG circulars to all IMO Member States.

\*\*The concentration of a substance which will, within the specified time (generally 96 hours) kill 50 per cent of the exposed group of test organisms.  $LC_{50}$  is often specified in milligrams per litre (mg/l) or (parts per million (ppm)).

ANNEX V  
REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE  
FROM SHIPSRegulation 1  
*Definitions*

For the purposes of this Annex:

- (1) *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 those substances which are defined or listed in other Annexes to the present Convention.
- (2) *Nearest land*. The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law except that, for the purposes of the present Convention, "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 in 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 9° 10' S. longitude 143° 52' E.  
thence to a point latitude 9° 00' S. longitude 144° 30' E.  
thence to a point latitude 13° 00' S. longitude 144° 00' E.  
thence to a point latitude 15° 00' S. longitude 146° 00' E.  
thence to a point latitude 18° 00' S. longitude 147° 00' E.  
thence to a point latitude 21° 00' S. longitude 153° 00' E.  
thence to a point on the coast of Australia in  
latitude 24° 42' S. longitude 153° 15' E.

- (3) *Special area* means a sea area where for recognised technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by garbage is required. Special areas shall include those listed in regulation 5 of this Annex.

Regulation 2  
*Application*

Unless expressly provided otherwise, the provisions of this Annex shall apply to all ships.

Regulation 3  
*Disposal of garbage outside special areas*

- (1) Subject to the provisions of regulations 4, 5 and 6 of this Annex:
  - (a) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags, is prohibited;
  - (b) the disposal into the sea of the following garbage shall be made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than:
    - (i) 25 nautical miles for dunnage, lining and packing materials which will float;
    - (ii) 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse;

- (c) disposal into the sea of garbage specified in subparagraph (b)(ii) of this regulation may be permitted when it has passed through a comminuter or grinder and made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than 3 nautical miles. Such comminuted or ground garbage shall be capable of passing through a screen with openings no greater than 25 mm.
- (2) When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

## Regulation 4

*Special requirements for disposal of garbage*

- (1) Subject to the provisions of paragraph (2) of this regulation, the disposal of any materials regulated by this Annex is prohibited from fixed or floating platforms engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources, and from all other ships when alongside or within 500 m of such platforms.
- (2) The disposal into the sea of food wastes may be permitted when they have been passed through a comminuter or grinder from such fixed or floating platforms located more than 12 nautical miles from land and all other ships when alongside or within 500 m of such platforms. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 mm.

## Regulation 5

*Disposal of garbage within special areas*

- (1) For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the "Gulfs area", the North Sea area, the Antarctic area and the Wider Caribbean Region, including the Gulf of Mexico and the Caribbean Sea, which are defined as follows:
- (a) The *Mediterranean Sea area* means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41° N parallel and bounded to the west by the Straits of Gibraltar at the meridian 5° 36' W.
- (b) 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 of the Skaw in the Skagerrak at 57° 44.8' N.
- (c) The *Black Sea area* means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41° N.
- (d) The *Red Sea area* means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12° 8.5' N, 43° 19.6' E) and Husn Murad (12° 40.4' N, 43° 30.2' E).
- (e) The *Gulfs area* means the sea area located north-west of the rhumb line between Ras al Hadd (22° 30' N, 59° 48' E) and Ras al Fasteh (25° 04' N, 61° 25' E).
- (f) The *North Sea area* means the North Sea proper including seas therein with the boundary between:
- (i) the North Sea southwards of latitude 62° N and eastwards of longitude 4° W;
- (ii) the Skagerrak, the southern limit of which is determined east of the Skaw by latitude 57° 44.8' N; and
- (iii) the English Channel and its approaches eastwards of longitude 5° W and northwards of latitude 48° 30' N.

- (g) The *Antarctic area* means the sea area south of latitude 60° S.
- (h) The *Wider Caribbean Region*, as defined in article 2, paragraph 1 of the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena de Indias, 1983), means the Gulf of Mexico and Caribbean Sea proper including the bays and seas therein and that portion of the Atlantic Ocean within the boundary constituted by the 30° N parallel from Florida eastward to 77° 30' W meridian, thence a rhumb line to the intersection of 20° N parallel and 59° W meridian, thence a rhumb line to the intersection of 7° 20' N parallel and 50° W meridian, thence a rhumb line drawn south-westerly to the eastern boundary of French Guiana.
- (2) Subject to the provisions of regulation 6 of this Annex:
- (a) disposal into the sea of the following is prohibited:
- (i) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags; and
- (ii) all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;
- (b) except as provided in subparagraph (c) of this paragraph, disposal into the sea of food wastes shall be made as far as practicable from land, but in any case not less than 12 nautical miles from the nearest land;
- (c) disposal into the Wider Caribbean Region of food wastes which have been passed through a comminuter or grinder shall be made as far as practicable from land, but in any case not less than 3 nautical miles from the nearest land. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 mm.
- (3) When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.
- (4) Reception facilities within special areas:
- (a) The Government of each Party to the Convention, the coastline of which borders a special area, undertakes to ensure that as soon as possible in all ports within a special area adequate reception facilities are provided in accordance with regulation 7 of this Annex, taking into account the special needs of ships operating in these areas.
- (b) The Government of each Party concerned shall notify the Organisation of the measures taken pursuant to subparagraph (a) of this regulation. Upon receipt of sufficient notifications the Organisation shall establish a date from which the requirements of this regulation in respect of the area in question shall take effect. The Organisation shall notify all Parties of the date so established no less than twelve months in advance of that date.
- (c) After the date so established, ships calling also at ports in these special areas where such facilities are not yet available, shall fully comply with the requirements of this regulation.
- (5) Notwithstanding paragraph 4 of this regulation, the following rules apply to the Antarctic area:
- (a) The Government of each Party to the Convention at whose ports ships depart *en route* to or arrive from the Antarctic area undertakes to ensure that as soon as practicable adequate facilities are provided for the reception of all garbage from all ships, without causing undue delay, and according to the needs of the ships using them.



- (b) The Government of each Party to the Convention shall ensure that all ships entitled to fly its flag, before entering the Antarctic area, have sufficient capacity on board for the retention of all garbage while operating in the area and have concluded arrangements to discharge such garbage at a reception facility after leaving the area.

**Regulation 6**  
*Exceptions*

Regulations 3, 4 and 5 of this Annex 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 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.

**Regulation 7**  
*Reception facilities*

- (1) The Government of each Party to the Convention undertakes to ensure the provision of facilities at ports and terminals for the reception of garbage, without causing undue delay to ships, and according to the needs of the ships using them.
- (2) The Government of each Party shall notify the Organisation for transmission to the Parties concerned of all cases where the facilities provided under this regulation are alleged to be inadequate.

**Regulation 8**  
*Port State control on operational requirements\**

- (1) A ship when in a port of another Party is subject to inspection by officers duly authorised by such Party concerning operational requirements under this Annex, where there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by garbage.
- (2) In the circumstances given in paragraph (1) of this regulation, the Party shall take such steps as will ensure that the ship shall not sail until the situation has been brought to order in accordance with the requirements of this Annex.
- (3) Procedures relating to the port State control prescribed in article 5 of the present Convention shall apply to this regulation.
- (4) Nothing in this regulation shall be construed to limit the rights and obligations of a Party carrying out control over operational requirements specifically provided for in the present Convention.

\*Refer to the Procedures for port State control adopted by the Organisation by resolution A.787(19); see IMO sales publication IMO-650E.

## Regulation 9

*Placards, garbage management plans and garbage record-keeping*

- (1) (a) Every ship of 12 m or more in length overall shall display placards which notify the crew and passengers of the disposal requirements of regulations 3 and 5 of this Annex, as applicable.
  - (b) The placards shall be written in the official language of the State whose flag the ship is entitled to fly and, for ships engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention, in English or French.
  - (2) Every ship of 400 tons 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 in accordance with the guidelines developed by the Organisation\* and written in the working language of the crew.
  - (3) Every ship of 400 tons gross tonnage and above and every ship which is certified to carry 15 persons or more engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention and every fixed and floating platform engaged in exploration and exploitation of the sea-bed shall be provided with 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 form specified in the appendix to this Annex.
    - (a) each discharge operation, or completed incineration, shall be recorded in the Garbage Record Book and signed for on the date of the 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 both in an official language of the State whose flag the ship is entitled to fly, and in English or French. The entries in an official national language of the State whose flag the ship is entitled to fly shall prevail in case of a dispute or discrepancy;
    - (b) 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;
    - (c) 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 preserved for a period of two years after the last entry is made on the record;
    - (d) in the event of discharge, escape or accidental loss referred to in regulation 6 of this Annex an entry shall be made in the Garbage Record Book of the circumstances of, and the reasons for, the loss.
- \* Refer to the Guidelines for the development of garbage management plans adopted by the Marine Environment Protection Committee of the Organisation by resolution MEPC.70(38); see MEPC/Circ.317 and IMO sales publication IMO-656E.
- (4) The Administration may waive the requirements for Garbage Record Books for:
    - (a) any ship engaged on voyages of 1 hour or less in duration which is certified to carry 15 persons or more; or
    - (b) fixed or floating platforms while engaged in exploration and exploitation of the sea-bed.

- (5) The competent authority of the Government of a Party to the Convention may inspect the Garbage Record Book on board any ship to which this regulation applies while the ship is in its ports or offshore terminals and may make a copy of any entry in that book, and may require the master of the ship to certify that the copy is a true copy of such an entry. 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. The inspection of a Garbage Record Book and the taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.
- (6) In the case of ships built before 1 July 1997, this regulation shall apply as from 1 July 1998.

Appendix  
Form of Garbage Record Book

Name of ship: \_\_\_\_\_

Distinctive number or letters: \_\_\_\_\_

IMO No.: \_\_\_\_\_

Period: From: \_\_\_\_\_ To: \_\_\_\_\_

**1 Introduction**

In accordance with regulation 9 of Annex V of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 (MARPOL 73/78), a record is to be kept of each discharge operation or completed incineration. This includes discharges at sea, to reception facilities, or to other ships.

**2 Garbage and garbage management**

Garbage includes all kinds of food, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the vessel and liable to be disposed of continuously or periodically except those substances which are defined or listed in other annexes to MARPOL 73/78 (such as oil, sewage or noxious liquid substances).

The Guidelines for the Implementation of Annex V of MARPOL 73/78\* should also be referred to for relevant information.

**3 Description of the garbage**

The garbage is to be grouped into categories for the purposes of this record book as follows:

- 1 Plastics
- 2 Floating dunnage, lining, or packing material
- 3 Ground-down paper products, rags, glass, metal, bottles, crockery, etc.
- 4 Paper products, rags, glass, metal, bottles, crockery, etc.
- 5 Food waste
- 6 Incinerator ash.

\* Refer to the Guidelines for the Implementation of Annex V of MARPOL 73/78; see IMO sales publication IMO-656E.

**4 Entries in the Garbage Record Book**

4.1 Entries in the Garbage Record Book shall be made on each of the following occasions:

- (a) When garbage is discharged into the sea:
  - (i) Date and time of discharge
  - (ii) Position of the ship (latitude and longitude)
  - (iii) Category of garbage discharged
  - (iv) Estimated amount discharged for each category in cubic metres
  - (v) Signature of the officer in charge of the operation.

- (b) When garbage is discharged to reception facilities ashore or to other ships:
  - (i) Date and time of discharge
  - (ii) Port or facility, or name of ship
  - (iii) Category of garbage discharged
  - (iv) Estimated amount discharged for each category in cubic metres
  - (v) Signature of officer in charge of the operation.
  
- (c) When garbage is incinerated:
  - (i) Date and time of start and stop of incineration
  - (ii) Position of the ship (latitude and longitude)
  - (iii) Estimated amount incinerated in cubic metres
  - (iv) Signature of the officer in charge of the operation.
  
- (d) Accidental or other exceptional discharges of garbage
  - (i) Time of occurrence
  - (ii) Port of position of the ship at time of occurrence
  - (iii) Estimated amount and category of garbage
  - (iv) Circumstances of disposal, escape or loss, the reason therefor and general remarks.

#### **4.2 Receipts**

The master should obtain from the operator of port reception facilities, or from the master of the ship receiving the garbage, a receipt or certificate specifying the estimated amount of garbage transferred. The receipts or certificates must be kept on board the ship with the Garbage Record Book for two years.

#### **4.3 Amount of garbage**

The amount of garbage on board should be estimated in cubic metres, if possible separately according to category. The Garbage Record Book contains many references to estimated amount of garbage. It is recognised that the accuracy of estimating amounts of garbage is left to interpretation. Volume estimates will differ before and after processing. Some processing procedures may not allow for a useable estimate of volume, e.g. the continuous processing of food waste. Such factors should be taken into consideration when making and interpreting entries made in a record.

**RECORD OF GARBAGE DISCHARGES**

Ship's name: \_\_\_\_\_ Distinctive No., or letters: \_\_\_\_\_ IMO No.: \_\_\_\_\_

**Garbage categories:**

- 1: Plastic.
- 2: Floating dunnage, lining, or packing materials.
- 3: Ground paper products, rags, glass, metal, bottles, crockery, etc.
- 4: Paper products, rags, glass, metal, bottles, crockery, etc.
- 5: Food waste.
- 6: Incinerator ash.

**NOTE: THE DISCHARGE OF ANY GARBAGE OTHER THAN FOOD WASTE IS PROHIBITED IN SPECIAL AREAS. ONLY GARBAGE DISCHARGED INTO THE SEA MUST BE CATEGORISED. GARBAGE OTHER THAN CATEGORY 1 DISCHARGED TO RECEPTION FACILITIES NEED ONLY BE LISTED AS A TOTAL ESTIMATED AMOUNT.**

Date/time	Position of the ship	Estimated amount discharged into sea (m <sup>3</sup> )					Estimated amount discharged to reception facilities or to other ship (m <sup>3</sup> )		Estimated amount incinerated (m <sup>3</sup> )	Certification/Signature
		CAT.2	CAT.3	CAT.4	CAT.5	CAT.6	CAT.1	Other		

Master's signature: \_\_\_\_\_ Date: \_\_\_\_\_

**SCHEDULE 2**  
*Further Amendments of Principal Act*

Provision Amended	How Amended
Section 8(1)	Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:  <div style="margin-left: 40px;">Maximum penalty:   (a) if the offender is a natural person—\$200 000; or   <div style="margin-left: 80px;">(b) if the offender is a body corporate—\$1 000 000.</div> </div>
Section 8(4)(a)(v)	Strike out "made under the <i>Marine Act 1936</i> or".
Section 8(4)(b)(iv)	Strike out "made under the <i>Marine Act 1936</i> or".
Section 8(4)(g)(iii)	Strike out "made under the <i>Marine Act 1936</i> or".
Section 8(4a)(b)	Strike out "Schedule 13" and substitute "Schedule 3".
Section 9(1)	Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:  <div style="margin-left: 40px;">Maximum penalty:   (a) if the offender is a natural person—\$200 000; or   <div style="margin-left: 80px;">(b) if the offender is a body corporate—\$1 000 000.</div> </div>
Section 10A(7)	Strike out the penalty provision and substitute:  <div style="margin-left: 40px;">Maximum penalty:   \$50 000.</div>
Section 11(4)	Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:  <div style="margin-left: 40px;">Maximum penalty:   (a) if the offender is a natural person—\$20 000; or   <div style="margin-left: 80px;">(b) if the offender is a body corporate—\$100 000.</div> </div>
Section 11(5)	Strike out the penalty provision and substitute:  <div style="margin-left: 40px;">Maximum penalty:   \$20 000.</div>
Section 11(7)	Strike out the penalty provision and substitute:  <div style="margin-left: 40px;">Maximum penalty:   \$20 000.</div>
Section 12	Strike out the penalty provision and substitute:  <div style="margin-left: 40px;">Maximum penalty:   \$20 000.</div>

- Section 13(2) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:
- Maximum penalty: (a) if the offender is a natural person—\$20 000; or
- (b) if the offender is a body corporate—\$100 000.
- Section 18(1) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:
- Maximum penalty: (a) if the offender is a natural person—\$200 000; or
- (b) if the offender is a body corporate—\$1 000 000.
- Section 20(1) Strike out the penalty provision and substitute:
- Maximum penalty: \$50 000.
- Section 20(3) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (c) and (d) and insert the following penalty provision:
- Maximum penalty: (a) if the offender is a natural person—\$50 000; or
- (b) if the offender is a body corporate—\$250 000.
- Section 20(6) Strike out the penalty provision and substitute:
- Maximum penalty: \$20 000.
- Section 20(7) Strike out the penalty provision and substitute:
- Maximum penalty: \$20 000.
- Section 20(8) Strike out the penalty provision and substitute:
- Maximum penalty: \$20 000.
- Section 21(4) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:
- Maximum penalty: (a) if the offender is a natural person—\$20 000; or
- (b) if the offender is a body corporate—\$100 000.
- Section 21(5) Strike out the penalty provision and substitute:
- Maximum penalty: \$20 000.



- Section 21(8) Strike out the penalty provision and substitute:  
Maximum penalty: \$20 000.
- Section 22 Strike out the penalty provision and substitute:  
Maximum penalty: \$20 000.
- Section 23(2) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:  
Maximum penalty: (a) if the offender is a natural person—\$20 000; or  
(b) if the offender is a body corporate—\$100 000.
- Section 23(4) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:  
Maximum penalty: (a) if the offender is a natural person—\$20 000; or  
(b) if the offender is a body corporate—\$100 000.
- Section 24E(1) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:  
Maximum penalty: (a) if the offender is a natural person—\$5 000; or  
(b) if the offender is a body corporate—\$25 000.
- Section 24E(2)(b) Insert the following penalty provision:  
Maximum penalty: (i) if the offender is a natural person—\$5 000; or  
(ii) if the offender is a body corporate—\$25 000.
- Section 24E(2)(c) Strike out this paragraph.
- Section 24F(2) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:  
Maximum penalty: (a) if the offender is a natural person—\$8 000; or  
(b) if the offender is a body corporate—\$40 000.

- Section 24G(2) Strike out the penalty provision and substitute:
- Maximum penalty: \$40 000, or imprisonment for 4 years, or both.
- Section 24G(3) Strike out the penalty provision and substitute:
- Maximum penalty: (a) if the offender is a natural person—\$40 000, or imprisonment for 4 years, or both; or
- (b) if the offender is a body corporate—\$200 000.
- Section 24G(6) Strike out the penalty provision and substitute:
- Maximum penalty: \$5 000.
- Section 24K(1) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:
- Maximum penalty: (a) if the offender is a natural person—\$5 000; or
- (b) if the offender is a body corporate—\$25 000.
- Section 24K(3)(b) Insert the following penalty provision:
- Maximum penalty: (i) if the offender is a natural person—\$5 000; or
- (ii) if the offender is a body corporate—\$25 000.
- Section 24K(3)(c) Strike out this paragraph.
- Section 24L(2) Strike out "punishable, upon conviction, by a fine not exceeding—" and paragraphs (a) and (b) and insert the following penalty provision:
- Maximum penalty: (a) if the offender is a natural person—\$8 000; or
- (b) if the offender is a body corporate—\$40 000.
- Section 24M(1) Strike out the penalty provision and substitute:
- Maximum penalty: (a) if the offender is a natural person—\$40 000, or imprisonment for 4 years, or both; or
- (b) if the offender is a body corporate—\$200 000.

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Section 24M(4)	Strike out the penalty provision and substitute:  Maximum penalty: \$5 000.
Section 25	Strike out from paragraph (a) of the definition of "agent" " <i>Harbors Act 1936</i> or the <i>Marine Act 1936</i> " and substitute " <i>Harbors and Navigation Act 1993</i> ".
Section 26(1)	Strike out the penalty provision and substitute:  Maximum penalty: \$200 000.
Section 26(2)	Strike out the penalty provision and substitute:  Maximum penalty: \$200 000.
Section 27(1)	Strike out the penalty provision and substitute:  Maximum penalty: \$20 000.
Section 27(2)	Strike out the penalty provision and substitute:  Maximum penalty: \$20 000.
Section 27(3)	Strike out the penalty provision and substitute:  Maximum penalty: \$20 000.
Section 28(3)	Strike out the penalty provision and substitute:  Maximum penalty: \$200 000.
Section 30(3)	Strike out the penalty provision and substitute:  Maximum penalty: \$50 000.
Section 33(3)	Strike out the penalty provision and substitute:  Maximum penalty: \$8 000.
Section 33(3A)	Strike out the penalty provision and substitute:  Maximum penalty: \$20 000.
Section 34(4)	Strike out the penalty provision and substitute:  Maximum penalty: \$20 000.
Section 35(4)	Strike out the penalty provision and substitute:  Maximum penalty: \$8 000.

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In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor