

S.I. No. 117/2003 — European Communities (Port Reception Facilities For Ship-Generated Waste and Cargo Residues) Regulations 2003

S.I. No. 117 of 2003

EUROPEAN COMMUNITIES (PORT RECEPTION FACILITIES FOR SHIP-GENERATED WASTE AND CARGO RESIDUES) REGULATIONS 2003

I, DERMOT AHERN, Minister for Communications, Marine and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Directive No. 2000/59/EC of the European Parliament and of the Council of 27 November 2000¹, hereby make the following regulations:

- Citation and commencement.** 1. (1) These Regulations may be cited as the European Communities (Port Reception Facilities for Ship-Generated Waste and Cargo Residues) Regulations 2003.
- (2) (a) In respect of sewage from new ships these Regulations come into operation on 27 September 2004.
- (b) In respect of sewage from existing ships these Regulations come into operation on 27 September 2008.
- Interpretation.** 2. (1) In these Regulations, unless the context otherwise requires—
- “authorised officer” means one or more of the following:
- (a) a person duly appointed under Regulation 4(2),
- (b) a member of the Permanent Defence Forces holding commissioned rank, while in uniform,
- (c) a member of the Garda Síochána, while in uniform;

“cargo residues” means the remnants of any cargo material on board in cargo holds or tanks which remain after unloading procedures and cleaning operations are completed and includes spillage and loading and unloading excesses;

“Directive” means Directive No. 2000/59/EC of the European Parliament and the Council of 27 November 2000¹ ;

“functions” includes powers and duties, and a reference to the performance of functions includes, with respect to powers and duties, a reference to the exercise of the powers and the carrying out of the duties;

“Irish ship” means an Irish ship within the meaning of section 9 of the Mercantile Marine Act 1955 (No. 29 of 1955);

“local authority” has the same meaning as in the Local Government Act 2001 (No. 37 of 2001);

“local competent authority” shall be construed in accordance with Regulation 4;

“MARPOL 73/78” means the International Convention for the Prevention of Pollution from Ships 1973, done at London on 2 November 1973, as modified by the Protocol of 1978 relating thereto, done at London on 17 February 1978;

“master”, in relation to a ship, means the person (excluding, where appropriate, a pilot) having, for the time being, the command or charge of the ship;

“Minister” means Minister for Communications, Marine and Natural Resources;

“port” includes a fishery harbour centre within the meaning of the Fishery Harbour Centres Acts 1968 to 1998;

“port authority” means-

- (a) in the case of a port to which the Harbour Acts 1946 to 1976 apply, a harbour authority within the meaning of those Acts,
- (b) in the case of a port under the control of a company established pursuant to section 7 of the Harbours Acts 1996, the company concerned,
- (c) in the case of a port under the control of a local authority, the local authority concerned,
- (d) in the case of a port under the management of Iarnród Éireann - Irish Rail, that body, and
- (e) in the case of any other port, its owner;

“recreational craft” means a ship of any type, regardless of the means of propulsion,

intended for sports or leisure purposes;

“sewage” means one or more of the following:

- (a) drainage and other wastes from any form of toilets and urinals,
- (b) drainage from medical premises (including dispensary and sick bay) via wash basins, wash tubs, and scuppers located in such premises,
- (c) drainage from spaces containing living animals,
- (d) other waste waters when mixed with the drainages to which subparagraphs (a), (b) and (c) or any of them relate;

“ship” means a seagoing vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles and floating craft;

“territorial waters” means -

- (a) the territorial seas for the purposes of the Maritime Jurisdiction Acts 1959 to 1988, and
- (b) the internal waters within the meaning given by section 5 of the Maritime Jurisdiction Act 1959 (No. 22 of 1959);

“waste reception facilities” means a facility that is fixed, floating or mobile and is capable of receiving ship-generated waste and cargo residues.

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

(3) In these Regulations -

- (a) a reference to a Regulation or a Schedule is a reference to a Regulation of, or a Schedule to, these Regulations, unless it is indicated that reference to some other Regulations is intended, and
- (b) a reference to a paragraph or subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

Application of 3. (1) Except where otherwise provided, these Regulations apply to:

regulations.

- (a) all ships (including fishing vessels and recreational craft) in the territorial waters of the State calling at, or operating within, a port of the State, and
- (b) all ports within the State normally visited by ships referred to in subparagraph (a).

(2) These Regulations do not apply to warships, naval auxiliary ships or other ships owned or operated by a state and used, for the time being, only on government non-commercial service.

(3) Masters of ships that are exempted from the application of these Regulations under paragraph (2) shall deliver their ship-generated waste and cargo residues in a manner consistent, in so far as is reasonable and practicable, with these Regulations.

Competent authorities.

4. (1) For the purposes of these Regulations and the Directive -
- (a) the Minister is the national competent authority in the State;
 - (b) the local competent authority in the State is -
 - (i) in the case of a fishery harbour centre, the harbour master or such other person as the Minister may designate from time to time, and
 - (ii) in the case of any other port, the port authority concerned.
- (2) (a) A function conferred on a competent authority by these Regulations may be performed by an authorised officer.
- (b) The Minister may appoint such and so many persons as he or she thinks fit to be authorised officers for the exercise of their functions under these Regulations.
- (c) A local competent authority may appoint such and so many persons as it thinks fit to be authorised officers for the exercise of their functions under these Regulations.
- (d) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and shall, on request by any person affected during the exercise of any function under these Regulations, produce the warrant to that person for inspection.

Functions of authorised officers.

5. (1) An authorised officer may, at any time for the purpose of verifying compliance with these Regulations by any ship to which these Regulations apply, do one or more of the following:

- (a) stop and board any ship in port or otherwise within territorial waters and carry out such examination and inspection of the entire ship as he or she thinks fit;
- (b) take away samples of anything found on board which in the opinion of the authorised officer, is ship-generated waste for the purpose of analysis;
- (c) require a person on the ship to provide information regarding the ship's waste or cargo residues;
- (d) cause to be recorded by any means any part of or thing on the ship;
- (e) inspect and take away documents or copies of electronic information.

(2) A person who -

- (a) without reasonable excuse fails to comply with any request or requirement made by an authorised officer under this Regulation,
- (b) obstructs or interferes with an authorised officer in the exercise of his or her functions under this Regulation, or
- (c) gives an authorised officer false or misleading information,

is guilty of an offence.

(3) A person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding € 3,000, or to imprisonment for a term not exceeding 6 months, or to both.

Duties of ships carrying ship-generated waste.

6. (1) The master of a ship calling at a port in the State shall deliver all ship-generated waste to the waste reception facility before leaving the port.

(2) Notwithstanding paragraph (1), a ship may proceed to the next port of call without delivering the ship-generated waste, if there is sufficient dedicated storage capacity for all ship-generated waste that has accumulated and will accumulate during the intended voyage of the ship until the intended port of delivery.

(3) If in the opinion of the local competent authority there is a risk that the waste will be discharged at sea because-

- (a) adequate facilities are not available at the intended port of delivery of the ship, or
- (b) the intended port of delivery is unknown to the local competent authority,

the local competent authority, having consulted with the Minister, shall take all necessary measures to prevent marine pollution, including by requiring the master of the ship to deliver its waste to the relevant waste reception facility before its departure from the port. If the ship is at sea the requirement may be made to proceed to a designated port to deliver its waste.

(4) A master of a ship contravening this Regulation is guilty of an offence.

(5) A person who without reasonable excuse fails to comply with any request or requirement made by an authorised officer under this Regulation is guilty of an offence.

(6) A person who obstructs or interferes with an authorised officer in the exercise of his or her functions under this Regulation or who gives an authorised officer false or misleading information is guilty of an offence.

(7) A person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding € 3,000, or to imprisonment for a term not exceeding 6 months, or to both.

Duties of ships carrying cargo residues.

7. (1) The master of a ship calling at a port in the State shall deliver all cargo residues to a waste reception facility in accordance with the provisions of MARPOL 73/78.

(2) A master of a ship contravening this Regulation is guilty of an offence.

(3) A person who without reasonable excuse fails to comply with any request or requirement made by an authorised officer under this Regulation is guilty of an offence.

(4) A person who obstructs or interferes with an authorised officer in the exercise of his or her functions under this Regulation or who gives an authorised officer false or misleading information is guilty of an offence.

(5) A person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding € 3,000, or to imprisonment for a term not exceeding 6 months, or to both.

Notification requirements of ships.

8. (1) This Regulation does not apply to recreational craft authorised to carry 12 or fewer passengers or to fishing vessels.

(2) The master of a ship that is bound for a port located in the State shall complete the form set out in Schedule 1 and notify that information to the appropriate local competent authority -

- (a) at least 24 hours prior to arrival, if the port of call is known,
- (b) as soon as the port of call is known, if this information is available less than 24 hours prior to arrival, or
- (c) at the latest upon departure from the previous port, if the duration of the voyage is less than 24 hours.

(3) The master of the ship shall keep the information referred to in paragraph (2) on board at least until the next port of call and shall upon request by a competent authority, give the form duly completed to the competent authority.

(4) A master of a ship who fails to comply with paragraph (2) or (3) is guilty of an offence and is liable on summary conviction to a fine not exceeding € 3,000, or to imprisonment for a term not exceeding 6 months, or to both.

(5) Every local competent authority shall keep the information received by it under this Regulation -

- (a) in such format or formats as the Minister may from time to time direct, and
- (b) for at least 3 years or for such longer period as the Minister may from time to time specify,

and shall forward a copy thereof and furnish information in relation thereto to the Minister on request.

Funding for waste reception facilities.

9. (1) Subject to paragraph (2) every port authority shall ensure that the costs of waste reception facilities are covered by means of a due collection of a fee from ships.

(2) Where waste reception facilities are provided at a fishery harbour centre the Minister shall, for the purpose of covering the costs of such facilities, specify the fees payable by ships using the facility.

(3) All moneys received pursuant to paragraph (2) shall be paid into the Fishery Harbour Centres Fund (within the meaning of the Fishery Harbour Centres Act

1968 (No. 18 of 1968).

Exemptions for certain ships.

10. Where a local competent authority is satisfied that a ship -
- (a) is engaged in scheduled traffic with frequent and regular port calls, and
 - (b) has an arrangement to -
 - (i) deliver its ship-generated waste, and
 - (ii) pay its fees in a port along its route,

the local competent authority may, with the approval of the Minister, grant an exemption to that ship from the obligations contained in Regulation 6(1), Regulation 8 and Regulation 9, or any of them, on such terms as the local competent authority may consider appropriate.

Inspections.

11. (1) Competent authorities may carry out one or more inspections and examinations of any ship in order to verify that it has complied with Regulations 6 and 7.
- (2) Paragraphs (3), (4) and (5) shall not apply to recreational craft authorised to carry 12 or fewer passengers or to fishing vessels.
- (3) If the competent authority is not satisfied with the results of such inspection and examination carried out under paragraph (1) it shall -
- (a) require the ship to remain in port until it has delivered its ship-generated waste and cargo residues to the waste reception facility in accordance with Regulations 6 and 7, or
 - (b) if the ship is at sea, require the ship to proceed to the waste reception facility designated by the competent authority and deliver its ship-generated waste and cargo residues to the waste reception facility in accordance with Regulations 6 and 7.
- (4) If the competent authority has reason to believe that a ship may have left its previous port without -
- (a) having complied with Regulation 6 or 7, or
 - (b) where appropriate, the equivalent provisions under the law of another Member State,

it shall require that the ship remain in port until an investigation has been carried out to

determine compliance with these Regulations and the Directive, including the accuracy of any information provided in accordance with Regulation 8. This procedure is not a sanction and is without prejudice to any penalty imposed by virtue of Regulation 14.

(5) The national competent authority shall carry out, or cause to be carried out, an annual total number of inspections and examinations corresponding to at least 25 per cent of the number of individual ships that enter ports in the State during a representative calendar year.

Waste reception and handling plans.

12. (1) (a) Local competent authorities shall develop and, following approval by the Minister, implement an appropriate waste reception and handling plan for their respective ports.
- (b) In drawing up its waste reception and handling plan the local competent authorities shall consult with the relevant parties, in particular with port users or their representatives, and have regard to their obligations under the Waste Management Acts 1996 and 2001, these Regulations and Articles 4, 6, 7, 10 and 12 of the Directive. Detailed requirements for the development of such plans, as set out in Annex I of the Directive, are set out in Schedule 2.

(2) The waste reception and handling plans referred to in paragraph (1) may, where required for reasons of efficiency, be developed in a regional context by the local competent authorities concerned, provided that the need for, and availability of, waste reception facilities are specified separately for each port for which they are responsible.

(3) The Minister shall evaluate each waste reception and handling plan, in so far as it relates to the terms of the Directive, and shall approve such plans without modifications, or with such modifications as the Minister specifies as being required for compliance with the Directive. The Minister shall monitor implementation of the plan as approved.

(4) A local competent authority shall submit an updated plan at least every 3 years to the Minister for approval. In the event of significant changes occurring in the operation of a port, the local competent authority shall submit a plan to the Minister to deal with the significant changes, irrespective of when the plan had been updated.

(5) Every local competent authority shall furnish to the Minister at least on an annual basis, or more frequently as may be requested by the Minister, in such form as the Minister shall determine, a status report on the waste reception facilities for each port for which the local competent authority is responsible.

(6) The Minister shall ensure, through the approval of waste reception and handling plans, that the formalities relating to the use of waste reception facilities are simple and expeditious in order to create an incentive for the master to use those facilities and to avoid undue delays to ships.

(7) Without prejudice to sections 4 and 6 of the Fishery Harbour Centres Act 1968 (No. 18 of 1968) the Minister shall provide such facilities (if any) in a fishery harbour centre as he or she considers necessary to give effect to these Regulations and to the Directive.

Offences.

13. (1) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Minister.

(2) In any proceedings under these Regulations for an alleged offence committed before 27 September 2008 involving sewage it shall be presumed until the contrary is shown that the ship concerned is a ship to which Regulation 1(2)(a) relates.

(3) Where an offence under these Regulations is committed by a body corporate and the offence is proved to have been committed with the consent, connivance or approval of, or to have been attributable to any wilful neglect on the part of, any person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body, shall be guilty of an offence and is liable to be proceeded against and punished as if he or she was guilty of the first-mentioned offence.

Savers.

14. These Regulations are in addition to, and not in substitution for, the following:

- (a) the Waste Management Acts 1996 and 2001 and Regulations made thereunder;
- (b) the Sea Pollution Acts 1991 and 1999 and Regulations made thereunder;
- (c) the Diseases of Animals Acts 1966 to 2001 and Regulations and Orders made thereunder, in particular -
 - (i) the Diseases of Animals (Feeding and Use of Swill) Order 1985 (S.I. No. 135 of 1985);
 - (ii) the Diseases of Animals (Feeding and Use of Swill) (Amendment) Order 1987 (S.I. No. 133 of 1987);
 - (iii) the Diseases of Animals Act (Prohibition on Use of Swill) Order 2001 (S.I. No. 597 of 2001).

SCHEDULE 1

Regulation 8

European Communities (Port Reception Facilities for Ship Generated Waste and Cargo Residues) Regulations 2003.

Type	Waste to be delivered m ³	Maximum dedicated storage capacity m ³	Amount of waste retained on board	Port at which remaining waste will be delivered	Estimated amount of waste to be generated between notification and next port of call m ³
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1. Waste oils

Sludge

Bilge water

Others
(specify)

2. Garbage

Food waste

Plastic

Other

3. Cargo-associated waste ⁽²⁾ (specify)

4. Cargo residues ⁽²⁾ (specify)

Notes:

1. This information may be used for Port State Control and other inspection purposes.
2. Member States will determine which bodies will receive copies of this notification.
3. This form shall be completed unless the ship is covered by an exemption in accordance with Article 9 of Directive 2000/59/EC.

I confirm that:

- (a) the above details are accurate and correct, and
- (b) there is sufficient dedicated onboard capacity on our ship to store all waste generated between notification and the next port at which waste will be delivered.

Date _____

Time _____

Signature _____

SCHEDULE 2

Regulation 12

Requirements for Waste Reception and Handling Plans in Ports

ANNEX I OF DIRECTIVE

Plans shall cover all types of ship-generated waste and cargo residues originating from ships normally visiting the port and shall be developed according to the size of the port and the types of ships calling at that port.

The following elements shall be addressed in the plans:

- an assessment of the need for waste reception facilities, in light of the need of the ships normally visiting the port;
- a description of the type and capacity of waste reception facilities;
- a detailed description of the procedures for the reception and collection of ship-generated waste and cargo residues;
- description of the charging system;
- procedures for reporting alleged inadequacies of waste reception facilities;
- procedures for ongoing consultations with port users, waste contractors, terminal operators and other interested parties; and

- type and quantities of ship-generated waste and cargo residues received and handled.

In addition, the plans should include:

- a summary of relevant legislation and formalities for delivery;
- identification of a person or persons to be responsible for the implementation of the plan;
- a description of the pre-treatment equipment and processes in the port, if any;
- a description of methods of recording actual use of the waste reception facilities;
- a description of methods of recording amounts of ship-generated waste and cargo residues received; and
- a description of how the ship-generated waste and cargo residues are disposed of.

The procedures for reception, collection, storage, treatment and disposal should conform in all respects to an environmental management scheme suitable for the progressive reduction of the environmental impact of these activities. Such conformity is presumed if the procedures are in compliance with the Council Regulation (EEC) No 1836/93 of 29 June 1993⁽¹⁾ allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme.

Information to be made available to all port users:

- brief reference to fundamental importance of proper delivery of ship-generated waste and cargo residues;
- location of waste reception facilities applicable to each berth with diagram or map;
- list of ship-generated waste and cargo residues normally dealt with;
- list of contact points, the operators and the services offered;
- description of procedures for delivery;
- description of charging system; and
- procedures for reporting alleged inadequacies of port waste reception facilities.

GIVEN under my Official Seal,
this 20th day of March 2003.



DERMOT AHERN

Minister for Communications, Marine and
Natural Resources

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to reduce the discharges of ship-generated waste and cargo residues into the sea, especially illegal discharges, from ships using ports in the Community, by improving the availability and use of port reception facilities for ship-generated waste and cargo residues, thereby enhancing the protection of the marine environment.

¹ OJ No. L332, 28.12.2000, p. 81.

¹ OJ No. L332, 28.12.2000, p. 81.

(1) Tick appropriate box.

(2) May be estimates.

(2) May be estimates.

(1) OJ No. L168, 10.7.1993, p.1.

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