

MERCHANT SHIPPING (PREVENTION OF POLLUTION BY GARBAGE) REGULATION
- CHAPTER 413J

Empowering section VerDate:30/06/1997

(Cap 413, section 3)

[22 December 1995]

(L.N. 574 of 1995)

SECT 1

Interpretation VerDate:30/06/1997

(1) In this Regulation, except where the context otherwise requires-

"garbage" (廢物) means all kinds of victual, domestic or operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically, except sewage originating from ships;

"harmful substances in packaged form" (有包裝的有害物質) 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 to that Code;

"IMDG Code" (《國際海運危險貨物守則》) means the 1992 consolidated edition of the International Maritime Dangerous Goods Code published by the International Maritime Organization, as amended from time to time by any relevant document as specified by the Director under subsection (2);

"mile" (哩) means an international nautical mile, that is to say a distance of 1 852 metres;

"nearest land" (最近陸地), when used in "from the nearest land", means, in relation to all land other than the part of Australia specified below, the low-water line along the coast as marked on large-scale charts officially recognized by the coastal state; and in relation to the part of the North-eastern coast of Australia which lies between the points 11 degrees 00'S, 142 degrees 08'E and 24 degrees 42'S, 153 degrees 15'E, means the nearest of the straight lines joining consecutively the following points- 11 degrees 00'S, 142 degrees 08'E; 10 degrees 35'S, 141 degrees 55'E; 10 degrees 00'S, 142 degrees 00'E; 9 degrees 10'S, 143 degrees 52'E; 9 degrees 00'S, 144 degrees 30'E; 13 degrees 00'S, 144 degrees 00'E; 15 degrees 00'S, 146 degrees 00'E; 18 degrees 00'S, 147 degrees 00'E; 21 degrees 00'S, 153 degrees 00'E and 24 degrees 42'S, 153 degrees 15'E;

"noxious liquid substance" (有毒液體物質) and "non-polluting substance" (非污染物質) have the meanings respectively given to them in the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations (Cap 413 sub. leg. B);

"oil" (油類) means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products, other than petrochemicals which are subject to the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations (Cap 413 sub. leg. B);

"oily mixture" (油性混合物) means a mixture containing oil;

"operational wastes" (運作方面的廢棄物) means all maintenance wastes, cargo associated wastes and cargo residues except wastes or residues from oil or oily mixtures, noxious liquid substances, non-polluting liquid substances or harmful substances in packaged form;

"plastics" (塑料) includes, but is not limited to, synthetic ropes, synthetic fishing nets and plastic garbage bags;

"required standard" (所需標準), when used in "to the required standard", means, in relation to comminuted or ground garbage, comminuted or ground sufficiently finely to be capable of passing through a screen with openings no greater than 25 millimetres;

"sea" (海) includes any estuary or arm of the sea;

"sewage" (污水) means-

(a) drainage and other wastes discharged from any form of toilet, urinal, or watercloset scupper;

(b) drainage discharged from wash basins, wash tubs or scuppers located in medical premises;

(c) drainage discharged from spaces containing living animals; and

(d) other waste waters when mixed with any such drainage;

"Special Area" (特殊區域) means any area listed in regulation 5 of Annex V to the Convention.

(2) For the purpose of the definition of "IMDG Code", the Director may by notice published in the Gazette specify any document considered by him to be relevant.

(Enacted 1995)

SECT 2

Application VerDate:30/06/1997

(1) Subject to subsection (2), this Regulation applies to Hong Kong ships wherever they may be and to other ships while they are within the waters of Hong Kong.

(2) This Regulation does not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

(Enacted 1995)

SECT 3

Disposal of garbage outside Special Areas VerDate:30/06/1997

(1) The disposal of any plastics from a ship into the sea outside a Special Area is prohibited.

(2) The disposal of garbage other than plastics from a ship into the sea outside a Special Area is prohibited except where it is made as

far from the nearest land as is practicable and-

(a) in the case of dunnage, lining and packing materials which will float, not less than 25 miles from the nearest land; or

(b) in the case of food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse, not less than 12 miles or, if such wastes and other garbage have been comminuted or ground to the required standard, not less than 3 miles from the nearest land.

(Enacted 1995)

SECT 4

Disposal of garbage within Special Areas VerDate:30/06/1997

(1)The disposal of garbage other than food wastes from a ship into the sea within a Special Area is prohibited.

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

(Enacted 1995)

SECT 5

Disposal of garbage into the seas within 500 metres of fixed or floating platforms VerDate:30/06/1997

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

(Enacted 1995)

SECT 6

Exemption VerDate:30/06/1997

The Director may exempt any ship or class or description of ship from any of the requirements of this Regulation, subject to such conditions as he may specify, and may alter or cancel any such exemption.

(Enacted 1995)

SECT 7

Penalties VerDate:30/06/1997

If in respect of any ship there is a contravention of any of the requirements of this Regulation, the owner, manager, demise charterer and master of the ship each commits an offence and is liable-

(a) on conviction upon indictment, to a fine of \$100000; or

(b) on summary conviction, to a fine of \$10000.
(Enacted 1995)

SECT 8

Defences VerDate:30/06/1997

(1)It shall be a defence to any charge under this Regulation to prove that the disposal was necessary for the purpose of securing the safety of the ship or those on board, or of saving life at sea, or that the escape of garbage resulted from damage to the ship or its equipment and that all reasonable precautions were taken before and after the damage occurred to prevent or minimize the escape.

(2)It shall be a defence to a charge under section 3(1) or 4(1) of disposal into the sea of synthetic fishing nets or of synthetic material incidental to the repair of such nets to prove that the disposal was an accidental loss and that all reasonable precautions were taken to prevent the loss.

(3)It shall be a defence for a person charged with an offence under section 7 to show that he took all reasonable steps and exercised all due diligence to ensure that this Regulation was complied with.
(Enacted 1995)