



MERCHANT SHIPPING (MARPOL ANNEX V PREVENTION OF POLLUTION BY GARBAGE) ORDER 2014

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ARTICLE 19

19



Statutory Document No. 2014/0065

*Oil Pollution Act 1986*

MERCHANT SHIPPING (MARPOL ANNEX V PREVENTION OF POLLUTION BY GARBAGE) ORDER 2014

Approved by Tynwald: 19 March 2014
Coming into Operation: 21 March 2014

The Department of Economic Development, after consulting the Secretary of State, makes the following Order under section 14 of the Oil Pollution Act 1986.

PART 1 - INTRODUCTORY

1 Title

This Order is the Merchant Shipping (MARPOL Annex V Prevention of Pollution by Garbage) Order 2014.

2 Commencement

If approved by Tynwald, this Order comes into operation on 21 March 2014.

3 Application

- (1) Unless provided otherwise, this Order applies to—
 - (a) a Manx ship wherever it may be; and
 - (b) a fixed or floating platform engaged in exploration and exploitation of the sea-bed and subsoil in the territorial waters of the Island.
- (2) Part 3 applies to a foreign ship in the territorial waters of the Island.
- (3) This Order 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.

4 Interpretation

- (1) In this Order —

- (a) **“MARPOL Convention”** means the International Convention for the Prevention of Pollution from Ships 1973 as amended by its protocol of 1978;
- (b) **“MARPOL Annex V”** means *Annex V to the MARPOL Convention including all amendments made to that Annex up to and including those adopted by IMO Resolution MEPC.314(74) on 17 May 2019 which comes into force on 1 October 2020;*
- (c) **“IMO”** means the International Maritime Organization; and
- (d) **“the Department”** means the Department of Economic Development¹.
- (2) In this Order –
- “all plastics”** means all garbage that consists of or includes plastic in any form, including synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products;
- “animal carcasses”** means the bodies of any animals that are carried on board as cargo and that die or are euthanized during the voyage;
- “authorised officer”** means a person appointed as an inspector in accordance with section 3 of the Merchant Shipping Act 1985;
- “cargo residues”** means the remnants of any cargo which are not included in other Annexes to the MARPOL Convention and which remain on the deck or in holds following loading or unloading, including loading and unloading excess or spillage, whether in wet or dry condition or entrained in wash water but does not include cargo dust remaining on the deck after sweeping or dust on the external surfaces of the ship;
- “controlled marine area”** has the meaning given by section 7 of the *Marine Infrastructure Management Act 2016*;
- “cooking oil”** means any type of edible oil or animal fat used or intended to be used for the preparation or cooking of food, but does not include the food itself that is prepared using these oils;
- “domestic wastes”** has the meaning given by paragraph (5);
- “electronic record book”** means *a device or system, approved by the Department or RO, used to electronically record the required entries for discharges, transfers and other operations as required under MARPOL Annex V in lieu of a hard copy record book;*
- “en route”** means that the ship is underway at sea on a course or courses, including deviation from the shortest direct route, which as far as practicable for navigational purposes, will cause any discharge to be spread over as great an area of the sea as is reasonable and practicable;

¹ Functions transferred from the Department of Economic Development to the Department for Enterprise by the Transfer of Functions (Economic Development and Education) Order 2017 (SD2017/0325)) with effect from 24 November 2017

- “**fishing gear**” means any physical device or part thereof or combination of items that may be placed on or in the water or on the sea-bed with the intended purpose of capturing, or controlling for subsequent capture or harvesting, marine or fresh water organisms;
- “**food wastes**” means any spoiled or unspoiled food substances and includes fruits, vegetables, dairy products, poultry, meat products and food scraps generated aboard ship;
- “**foreign ship**” means any ship that is not a Manx ship;
- “**from the nearest land**” means, subject to paragraph (4), from the baseline from which the territorial sea of the territory in question is established in accordance with international law;
- “**garbage**” has the meaning given by paragraph (6);
- “**incinerator ashes**” means ash and clinkers resulting from shipboard incinerators used for the incineration of garbage;
- “**inspector**” means a person appointed as an inspector under section 3 of the Merchant Shipping Act 1985 or a surveyor of an RO authorised by the Department to conduct inspections for compliance with the requirements of this Order;
- “**Manx ship**” has the same meaning given by section 1 of the Merchant Shipping Registration Act 1991 including ships registered under Part IV of that Act (the Demise Charter Register), or under Part 3 of the Harbours Act 2010;
- “**MSN**” means a Manx Shipping Notice issued by the Department, and includes any document which amends that notice;
- “**operator**” means the person registered as the owner of a Manx ship in accordance with the Merchant Shipping Registration Act 1991 or Part 3 of the Harbours Act 2010 (as the case may be), or any other person who has assumed responsibility for the operation of the ship from the owner and who on assuming that responsibility has agreed to take over all the duties and responsibilities imposed by the MARPOL Convention;
- “**operational wastes**” has the meaning given by paragraph (7);
- “**plastic**” has the meaning given by paragraph (8);
- “**Polar Code**” means the International Code for Ships Operating in Polar Waters, including all amendments made to that Code up to and including those adopted by IMO Resolution MEPC.264(68) on 15 May 2015 which came into force on 1 January 2017;
- “**polar waters**” has the meaning given by MARPOL Annex V Chapter 3 - International Code for Ships Operating in Polar Waters - regulation 13 (definitions);
- “**RO**” means any of the recognised organisations specified in MSN 020;

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

“*solid bulk cargoes*” means any cargo, other than liquid or gas, consisting of a combination of particles, granules or any larger pieces of material generally uniform in composition, which is loaded directly into the cargo spaces of a ship without any intermediate form of containment;

“**special area**” means a sea area where for recognised technical reasons in relation to its oceanographic 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 ; *and*

“*territorial waters of the Island*” means –

(a) *the territorial sea adjacent to the Isle of Man as that term is defined in section 1(1) of the Territorial Sea Act 1987² (as applied to the Island); and*

(b) *the controlled marine area.*

(3) For the purposes of this Order “**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.

Here –

(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**” 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° 28.5' 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);

² 1987 C.49 as extended to the Island by SI 1991/1722

- (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; and
- (h) **“the Wider Caribbean Region”** means the Gulf of Mexico and the 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 southwesterly to the eastern boundary of France Guiana.
- (4) For the purposes of this Order, **“from the nearest land”** off the north-eastern coast of Australia in relation to the baselines shall be treated as a line drawn from a point on the coast of Australia in —
- (a) latitude 11°00' S, longitude 142°08' E
 - (b) to a point in latitude 10°35' S, longitude 141°55' E
 - (c) thence to a point latitude 10°00' S, longitude 142°00' E
 - (d) thence to a point latitude 09°10' S, longitude 143°52' E
 - (e) thence to a point latitude 09°00' S, longitude 144°30' E
 - (f) thence to a point latitude 10°41' S, longitude 145°00' E
 - (g) thence to a point latitude 13°00' S, longitude 145°00' E
 - (h) thence to a point latitude 15°00' S, longitude 146°00' E
 - (i) thence to a point latitude 17°30' S, longitude 147°00' E
 - (j) thence to a point latitude 21°00' S, longitude 152°55' E
 - (k) thence to a point latitude 24°30' S, longitude 154°00' E
 - (l) thence to a point on the coast of Australia at latitude 24°42' S, longitude 153°15' E.
- (5) In this Order, **“domestic wastes”** means all types of wastes not included in other Annexes to the MARPOL Convention generated in the accommodation spaces on board the ship.
- But domestic wastes does not include grey water.

- (6) In this Order, “**garbage**” means all kinds of food wastes, domestic wastes and operational wastes, all plastics, cargo residues, incinerator ashes, cooking oil, fishing gear and animal carcasses 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 MARPOL Convention.

But garbage does not include fresh fish and parts thereof generated as a result of fishing activities which involve the transport of fish including shellfish for placement in the aquaculture facility and the transport of harvested fish including shellfish from such facilities to shore for processing.

- (7) In this Order, “**operational wastes**” means all solid wastes (including slurries) not included in other Annexes of the MARPOL Convention that are collected on board during normal maintenance or operations of a ship, or used for cargo stowage and handling.

Operational wastes also include cleaning agents and additives contained in cargo hold and external wash water.

But operational wastes does not include grey water, bilge water, or other similar discharges essential to the operation of a ship, taking into account the guidelines developed by the IMO.

- (8) In this Order “**plastic**” means a solid material which contains as an essential ingredient one or more high molecular mass polymers and which is formed (shaped) during either manufacture of the polymer or the fabrication into a finished product by heat and/or pressure.

For the sake of clarity, plastics have material properties ranging from hard and brittle to soft and elastic.

5 Operator’s responsibility

- (1) *The operator of a ship must ensure that the ship complies with such of the requirements of this Order as apply in relation to a ship of its description.*
- (2) *Paragraph (1) applies whether or not this Order imposes an obligation on another person.*
- (3) *An operator who fails to comply with paragraph (1) commits an offence and is liable –*
- (a) *on conviction on information –*
- (i) *in the case of a body corporate, to a fine; or*
- (ii) *in the case of an individual, to a fine or custody for a term not exceeding 2 years, or both; or*
- (b) *on summary conviction, to a fine not exceeding level 5 on the standard scale.*

PART 2 – DISCHARGE OF GARBAGE

6 General prohibition on discharge of garbage into the sea

- (1) Discharge of all garbage into the sea is prohibited, except as provided otherwise in articles 7, 8, 9 and 10 *and section 5.2 of Part II-A of the Polar Code*.
- (2) Discharge into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products is prohibited, except as provided in article 10.
- (3) Discharge of cooking oil into the sea is prohibited, except as provided in article 10.

7 Discharge of garbage outside special areas

- (1) Discharge of the following garbage into the sea outside special areas is only permitted while the ship is en route and as far as practicable from the nearest land, but in any case not less than –
 - (a) 3 nautical miles from the nearest land for food wastes which have been passed through a comminuter or grinder.
 - (b) 12 nautical miles from the nearest land for food wastes that have not been treated in accordance with paragraph (1)(a); and
 - (c) 12 nautical miles from the nearest land for cargo residues that cannot be recovered using commonly available methods for unloading, but such residues must not contain any substances classified as harmful to the marine environment *in accordance with the criteria set out in MARPOL Annex V Appendix I (Criteria for the classification of solid bulk cargoes as harmful to the marine environment)*.

This paragraph is subject to the following qualification.

Comminuted or ground food wastes falling within sub-paragraph (a) must be capable of passing through a screen with openings no greater than 25 mm.

- (2) Until 31 December 2015, cargo hold wash water from holds previously containing solid bulk cargoes classified as harmful to the marine environment may be discharged outside special areas, providing –
 - (a) based upon the information received from the relevant port authorities, the master determines that there are no adequate reception facilities either at the receiving terminal or at the next port of call;
 - (b) the ship is en route and as far as practicable from the nearest land, but not less than 12 nautical miles;

- (c) before washing, solid bulk cargo residue is removed (and bagged for discharge ashore) as far as practicable and holds are swept;
 - (d) filters are used in the bilge wells to collect any remaining solid particles and minimise solid residue discharge; and
 - (e) the discharge is recorded in the Garbage Record Book and the Department is notified utilising the Revised Consolidated Format for Reporting Alleged Inadequacies of Port Reception Facilities (MEPC.1/Circ.469/Rev.2).
- (3) For animal carcasses, discharge into the sea outside special areas is only permitted while the ship is en route and must occur as far from the nearest land as possible, taking into account the guidelines developed by the IMO.
- (4) Cleaning agents or additives contained in cargo hold, deck and external surfaces wash water may be discharged into the sea, but these substances must not be harmful to the marine environment, taking into account guidelines developed by the IMO.
- (5) When garbage is mixed with or contaminated by other substances prohibited from discharge or having different discharge requirements, the more stringent requirements apply.

8 Special requirements for discharge of garbage from fixed or floating platforms

- (1) The discharge into the sea of any garbage is prohibited from fixed or floating platforms and from all other ships when alongside or within 500m of such platforms.

This is subject to the following qualification.

- (2) Food wastes may be discharged into the sea from fixed or floating platforms located more than 12 nautical miles from the nearest land and from all other ships when alongside or within 500m of such platforms, but only when the wastes have been passed through a comminuter or grinder.

Comminuted or ground food wastes must be capable of passing through a screen with openings no greater than 25mm.

9 Discharge of garbage within special areas

- (1) Discharge of the following garbage into the sea within special areas is only permitted while the ship is en route and as follows —
- (a) discharge into the sea of food wastes as far as practicable from the nearest land, but not less than 12 nautical miles from the nearest land or the nearest ice shelf;
 - (b) food wastes must be comminuted or ground and must be capable of passing through a screen with openings no greater than 25mm;

- (c) food wastes must not be contaminated by any other garbage type;
- (d) discharge of introduced avian products, including poultry and poultry parts, is not permitted in the Antarctic area unless it has been treated to be made sterile;
- (e) discharge of cargo residues that cannot be recovered using commonly available methods for unloading, where all the following conditions are satisfied —
 - (i) *cargo residues contained in hold washing water do not include any substances classified as harmful to the marine environment according to the criteria set out in MARPOL Annex V Appendix I (Criteria for the classification of solid bulk cargoes as harmful to the marine environment);*
 - (ii) *cleaning agents or additives contained in hold washing water do not include any substances classified as harmful to the marine environment taking into account guidelines developed by the IMO;*
 - (iii) both the port of departure and the next port of destination are within the special area and the ship will not transit outside the special area between those ports;
 - (iv) no adequate reception facilities are available at those ports taking into account guidelines developed by the IMO; and
 - (v) where the conditions of sub-paragraphs (i) to (iv) have been fulfilled, discharge of cargo hold washing water containing residues must be made as far as practicable from the nearest land or the nearest ice shelf and (in any event) not less than 12 nautical miles from the nearest land or the nearest ice shelf.
- (2) Cleaning agents or additives contained in deck and external surfaces wash water may be discharged into the sea, but only if these substances are not harmful to the marine environment, taking into account guidelines developed by the IMO.
- (3) Before entering the Antarctic area, every ship must 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.
- (4) When garbage is mixed with or contaminated by other substances prohibited from discharge or having different discharge requirements, the more stringent requirements apply.

10 Exceptions

- (1) *Articles 6, 7, 8 and 9 and section 5.2 of Chapter 5 of Part II-A of the Polar Code do not apply to —*

- (a) the discharge 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;
 - (b) the accidental loss of garbage resulting from damage to a ship or its equipment, provided that all reasonable precautions have been taken before and after the occurrence of the damage, to prevent or minimise the accidental loss;
 - (c) the accidental loss of fishing gear from a ship provided that all reasonable precautions have been taken to prevent such loss; or
 - (d) the discharge of fishing gear from a ship for the protection of the marine environment or for the safety of that ship or its crew.
- (2) The en route requirements of articles 7 and 9 *and Chapter 5 of Part II-A of the Polar Code* do not apply to the discharge of food wastes where it is clear the retention on board of these food wastes presents an imminent health risk to the people on board.

11 Placards, garbage management plans and garbage record-keeping

- (1) Every ship of 12m or more in length overall, and fixed or floating platforms, must display placards which notify the crew and passengers of the discharge requirements of articles 6, 7, 8 and 9 *and section 5.2 of Part II-A of the Polar Code*, as applicable;
- (2) The placards must be written in the working language of the ship's crew and if this is not English, must also be in English.
- (3) Every ship of 100 gross tonnage or above, and every ship which is certified to carry 15 or more persons, and fixed or floating platforms must carry a garbage management plan which the crew must follow.
- (4) The garbage management plan must provide written procedures for minimising, collecting, storing, processing and disposing of garbage, including the use of the equipment on board and —
 - (a) designate the person or persons in charge of carrying out the plan;
 - (b) be based on the guidelines developed by the IMO; and
 - (c) must be written in the working language of the ship's crew and if this is not English, must also be in English.
- (5) Every ship of 400 gross tonnage or above and every ship which is certified to carry 15 or more persons engaged in voyages to ports or offshore terminals under the jurisdiction of another Party to the MARPOL Convention and every fixed or floating platform must have a Garbage Record Book.
- (6) *The Garbage Record Book, whether as a part of the ship's official logbook, or as an electronic record book approved by the Department or RO taking into account the guidelines developed by the IMO or otherwise, must be*

in the form specified in MARPOL Annex V Appendix II (Form of Garbage Record Book).

- (7) Each discharge into the sea or to a reception facility, or a completed incineration, must be –
- (a) promptly recorded in the Garbage Record Book; and
 - (b) signed for on the date of the discharge or incineration by the officer in charge.
- (8) Each completed page of the Garbage Record Book must be signed by the master of the ship.
- (9) The entries in the Garbage Record Book must be at least in English.
- (10) *The entry for each discharge into the sea under articles 7, 8 and 9 or section 5.2 of Chapter 5 of Part II-A of the Polar Code must include –*
- (a) date and time;*
 - (b) position of the ship (latitude and longitude);*
 - (c) category of the garbage; and*
 - (d) the estimated amount (in cubic metres) discharged.*
- (11) *For discharge of cargo residues the discharge start and stop positions must be recorded in addition to the requirements specified in paragraph (10).*
- (12) *The entry for each completed incineration must include –*
- (a) date and time;*
 - (b) position of the ship (latitude and longitude) at the start and stop of incineration;*
 - (c) categories of garbage incinerated; and*
 - (d) the estimated amount incinerated for each category in cubic metres.*
- (13) *The entry for each discharge to a port reception facility or another ship must include –*
- (a) date and time of discharge;*
 - (b) port or facility or name of ship;*
 - (c) categories of garbage discharged; and*
 - (d) the estimated amount discharged for each category in cubic metres.*
- (14) The Garbage Record Book, *along with receipts obtained from reception facilities*, must be kept on board the ship or the fixed or floating platform, and in such a place as to be readily available for inspection at all reasonable times.
- The Garbage Record Book must be preserved for a period of at least two years from the date of the last entry made in it.
- (15) In the event of any discharge or accidental loss referred to in article 10 –

- (a) an entry must be made in the Garbage Record Book, or
 - (b) *in the case of any ship of less than 400 gross tonnage, an entry must be made in the ship's official log book of the -*
 - (i) *date and time of occurrence;*
 - (ii) *port or position of the ship at time of occurrence (latitude, longitude and water depth if known);*
 - (iii) *reason for the discharge or loss;*
 - (iv) *details of the items discharged or lost;*
 - (v) *categories of garbage discharged or lost;*
 - (vi) *estimated amount for each category in cubic metres;*
 - (vii) *reasonable precautions taken to prevent or minimise such discharge or accidental loss; and*
 - (viii) *general remarks.*
- (16) The Department may waive the requirements for Garbage Record Books for —
- (a) any ship engaged on voyages of one hour or less in duration which is certified to carry 15 or more persons; or
 - (b) fixed or floating platforms.
- (17) The accidental loss or discharge of fishing gear as provided for in article 10 which poses a significant threat to the marine environment or navigation must be reported to the Department, and, where the loss or discharge occurs within waters subject to the jurisdiction of another State, also to that State.

11A Requirement to comply with the POLAR Code

In accordance with MARPOL Annex V regulation 14 (Application and requirements) all ships certified in accordance with MARPOL Annex V operating in polar waters must —

- (a) *comply with the environment related provisions of the introduction and with Chapter 5 of Part II-A of the Polar Code, in addition to any other applicable requirements of MARPOL Annex V; and*
- (b) *in applying Chapter 5 of Part II-A of the Polar Code, consider the additional guidance in Part II-B of the Polar Code.*

12 Powers of an inspector

- (1) Without limiting any wider powers that may be granted to an inspector under any other statutory provision, an inspector has the following powers —
- (a) to board a ship;

- (b) to carry out any examination, test or inquiry that he or she may consider necessary in order to be satisfied that the ship complies with this Order; and
 - (c) to require that any deficiency is remedied.
- (2) A person who wilfully obstructs an inspector in the exercise of a power conferred by paragraph (1), commits an offence and is liable on summary conviction to a fine not exceeding **£10,000**³ or, on conviction on information, to imprisonment for a term not exceeding 2 years and a fine.

13 Provisions relating to delay of ships

- (1) If an operator considers a ship has been unreasonably delayed, the operator may apply to the High Bailiff for a declaration to that effect.
- (2) An application under paragraph (1) –
- (a) may not be made more than 7 days after the delay has ceased;
 - (b) must be made in writing; and
 - (c) must be served on the Department as well as the High Bailiff.
- (3) On application under paragraph (1) it is for the applicant to show, on the balance of probabilities, that –
- (a) the ship's delay was unreasonable in all the circumstances; and
 - (b) the operator has suffered loss in consequence of that delay.
- (4) If it appears to the High Bailiff that both sub-paragraphs of paragraph (3) are met the High Bailiff may order the Department to pay compensation as appears appropriate.

14 Provisions relating to offences

- (1) It is a defence for a person charged under this Order to show that he or she took all reasonable steps to avoid the commission of the offence.
- (2) If the commission by any person of an offence under this Order is due to the act or default of some other person, that other person is guilty of the offence and a person may be charged with and convicted of the offence by virtue of this article whether or not proceedings are taken against the first-mentioned person.

³ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

PART 3 - FOREIGN SHIPS

15 Interpretation for this Part

In this Part, “**foreign ship operator**” means the owner of the foreign ship or any other person who has assumed responsibility for the operation of the ship from the owner and who on assuming that responsibility has agreed to take over all the duties and responsibilities imposed by the MARPOL Convention.

16 Foreign ship operator’s responsibility

- (1) If a ship is in the territorial waters of the Island, the foreign ship operator must ensure that –
 - (a) the condition of the ship and its equipment are maintained and operated in accordance with the requirements of MARPOL Annex V; and
 - (b) the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.
- (2) A foreign ship operator who fails to comply with paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding **£10,000⁴** or, on conviction on information, to imprisonment for a term not exceeding 2 years and a fine.

17 Inspection of a foreign ship

- (1) A ship in a port or an offshore terminal of the Island may be subject to inspection by an authorised officer –
 - (a) concerning operational requirements under MARPOL Annex V if 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; or
 - (b) to verify whether the ship has discharged any harmful substances in violation of the provisions of MARPOL Annex V.
- (2) An authorised officer may also –
 - (a) inspect the Garbage Record Books or ship’s official log-book;
 - (b) make a copy of any entry in those books; and
 - (c) require the master of the ship to certify that the copy is a true copy of such an entry.

⁴ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

18 Provisions relating to enforcement, detention of a foreign ship and offences

- (1) If an authorised officer carries out an inspection in accordance with article 17(1)(a) the ship may be detained until the situation has been brought into order in accordance with the requirements of MARPOL Annex V.
- (2) If an inspection is conducted or when measures are taken in accordance with paragraph (1), all reasonable efforts must be made to avoid a ship being unreasonably delayed or detained.
- (3) If a foreign ship operator considers a ship has been unreasonably detained or delayed, the foreign ship operator may apply to the High Bailiff for a declaration to that effect.
- (4) An application under paragraph (3) —
 - (a) may not be made more than 7 days after the detention or delay has ceased;
 - (b) must be made in writing; and
 - (c) must be served on the Department as well as the High Bailiff.
- (5) On an application under paragraph (3) it is for the applicant to show, on the balance of probabilities, that —
 - (a) the ship's detention or delay was unreasonable in all the circumstances; and
 - (b) the foreign ship operator has suffered loss in consequence of that detention or delay.
- (6) If it appears to the High Bailiff that both sub-paragraphs of paragraph (5) are met the High Bailiff may order the Department to pay such compensation as appears appropriate.
- (7) If a ship is detained in accordance with this article, section 74 of the Merchant Shipping Registration Act 1991 (which relates to the detention of a ship) has effect, subject to the modifications —
 - (a) in sub-sections (1) and (2), after “any officer of the Department” insert **“any authorised officer, ”**;
 - (b) in sub-section (3), for “this Act” (wherever occurring) substitute **“the MARPOL Annex V Order ”**; and
 - (c) after sub-section (3) add —

“(4) in this section —

“authorised officer” has the meaning given by article 4 of the MARPOL Annex V Order; and

“MARPOL Annex V Order” means the Merchant Shipping (MARPOL Annex V Prevention of Pollution by Garbage) Order 2014. **”**

- (8) It is a defence for a person charged under this Part to show that he or she took all reasonable steps to avoid the commission of an offence.
- (9) If the commission by any person of an offence under this Part is due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this article whether or not proceedings are taken against the first-mentioned person.

19 Consequential amendments

The schedule (consequential amendments) has effect.

MADE 17 FEBRUARY 2014

JOHN SHIMMIN
Minister for Economic Development

SCHEDULE**CONSEQUENTIAL AMENDMENTS****ARTICLE 19**

- (1) The Merchant Shipping (Prevention of Pollution by Garbage) Order 1989⁵ is revoked.
- (2) The Merchant Shipping (Demise Charter Register) Regulations 1991⁶ are amended as follows.

In Schedule 2, Part II, omit —

- (a) Merchant Shipping (Prevention of Pollution by Garbage) Order 1989⁷;
- (b) Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Order 1993⁸; and
- (c) Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999⁹.

- (3) The Merchant Shipping (Prevention of Pollution by Garbage)(Amendment) Order 1993¹⁰ is revoked.

- (4) The Merchant Shipping Registration Regulations 1996¹¹ are amended as follows.

In regulation 24(d) omit —

- (a) Merchant Shipping (Prevention of Pollution by Garbage)(Amendment) Order 1993¹²; and
 - (b) Merchant Shipping (Prevention of Pollution by Garbage)(Amendment) Regulations 1993¹³.
- (5) Article 3 of the Merchant Shipping (Prevention of Pollution) (Amendment) Order 1998¹⁴ is revoked.

- (6) The Merchant Shipping (Demise Charter Register)(Amendment) Regulations 1999¹⁵ are amended as follows.

In Schedule 2, Part II omit —

⁵ GC 1/89

⁶ GC 394/91

⁷ GC 1/89

⁸ SD 182/93

⁹ SD 79/99

¹⁰ SD 182/93

¹¹ SD 689/96

¹² SD 182/93

¹³ SD 407/93

¹⁴ SD 686/98

¹⁵ SD 552/99

- (a) Merchant Shipping (Prevention of Pollution by Garbage) Order 1989¹⁶;
 - (b) Merchant Shipping (Prevention of Pollution by Garbage)(Amendment) Order 1993¹⁷; and
 - (c) Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999¹⁸.
- (7) The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999¹⁹ are revoked.

¹⁶ GC 1/89

¹⁷ SD 182/93

¹⁸ SD 79/99

¹⁹ SD 79/99

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to Annex V of the MARPOL Convention, Regulations for the Prevention of Pollution by Garbage from Ships, and gives effect to amendments up to and including Resolution MEPC 216(63) of the Marine Environment Protection Committee of the International Maritime Organization.

This Order applies to a Manx ship wherever it may be, and fixed or floating platforms in the territorial waters of the Island. Part 3 of this Order applies to a foreign ship in the territorial waters of the Island.

Article 19 of the Order also revokes and replaces the Merchant Shipping (Prevention of Pollution by Garbage) Order 1989 (GC 1/89) and the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999 (SD 79/99).

This Order comes into effect on 21 March 2014.

Copies of this document and Manx Shipping Notices are obtainable from the Isle of Man Ship Registry, Department for Enterprise, St Georges Court, Upper Church Street, Douglas, Isle of Man, IM1 1EX and can be accessed via the website: <http://www.iomshipregistry.com>

The International Convention for the Prevention of Pollution from Ships 1973, its Protocols, IMO resolutions and circulars can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR and can be accessed via their website: <http://www.imo.org>

Amendments:

These Regulations are marked with amendments (*in bold italics*) made to these Regulations by section 55 of the Interpretation Act 2015 which increase the fines with effect from 1 January 2018.

The functions in these Regulations have been transferred from the Department of Economic Development to the Department for Enterprise by the Transfer of Functions (Economic Development and Education) Order 2017 (SD2017/0325) with effect from 24 November 2017.

This Order is amended by SD2020/0247 Merchant Shipping (MARPOL)(Amendments) Order 2020 to give effect to the latest update to the MARPOL Convention for Annex V which was adopted by IMO Resolution MEPC.314(74) adopted on 17 May 2019 and came into force on 1 October 2020.