

CAYMAN ISLANDS



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**THE MERCHANT SHIPPING
(PREVENTION OF POLLUTION BY GARBAGE)
(CAYMAN ISLANDS) REGULATIONS 1989**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to regulations 1-6 of Annex V to the International Convention for the Prevention of Pollution from Ships 1973 (Cmnd 5748) as amended by the Protocol thereto of 1978. The Convention as amended with Annexes I and II thereto was ratified by the United Kingdom on 22 May 1980, came into force internationally on 2 October 1983 and applied in respect of the Cayman Islands with effect from 23 June 1988. Annex V, which was accepted by the United Kingdom on 27 May 1986 and applied in respect of the Cayman Islands with effect from 23 June 1988, came into force internationally on 31 December 1988.

The Regulations apply to Cayman Islands ships wherever they may be and to other ships while they are within the Cayman Islands or Cayman Islands territorial waters. The term "ships" in these Regulations includes submersible craft and offshore installations.

Any discharge of garbage from ships into the sea must comply with the requirements of the Regulations. The requirements applicable to discharges in Special Areas are more stringent than those applicable outside Special Areas. At the time when these Regulations come into force there are no Special Areas but areas which are subsequently designated as such by the Secretary of State for Transport of the United Kingdom in a Merchant Shipping Notice will become Special Areas from the date specified in such Merchant Shipping Notice.

If a ship fails to comply with the requirements of these Regulations the owner, manager, charterer and master are each guilty of an offence punishable on summary conviction by a fine not exceeding ten thousand dollars.

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Offences

9. Any breach of regulations 3, 4, 5, 6 or 7 shall be an offence on the part of the owner, manager, demise charterer and master of the ship punishable on summary conviction by a fine not exceeding ten thousand dollars.

Defences

10. (1) It shall be a defence for a person charged under regulation 9 with a breach of regulations 3,4,5,6 or 7 to prove that the disposal was necessary for the purpose of securing the safety of the ship or persons carried in the ship, or of saving life at sea, or that the escape of garbage resulted from damage to the ship or its equipment and all reasonable precautions were taken before and after the damage occurred to prevent or minimise the escape.

(2) It shall be a defence for a person charged under regulation 9 with a breach of regulations 3 or 5 by disposal into the sea of synthetic fishing nets or of synthetic material incidental to the repair of such nets 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 under regulation 9 with a breach of regulations 3, 4, 5, 6 or 7 to prove that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

Made in Council this 24th day of November, 1989.

MONA N. JACKSON
Clerk of the Executive Council.

CAYMAN ISLANDS

THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS) LAW 1987

THE MERCHANT SHIPPING (PREVENTION OF POLLUTION BY GARBAGE) (CAYMAN ISLANDS) REGULATIONS 1989

The Governor in Council, after consultation with the Secretary of State for Transport of the United Kingdom, in exercise of the powers conferred on him by section 59 of the Merchant Shipping (Applicable Conventions) Law, 1987 and of all other powers enabling him in that behalf, hereby makes the following Regulations:-

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Merchant Shipping (Prevention of Pollution by Garbage) (Cayman Islands) Regulations, 1989 and shall come into force on the date when they are made.

(2) In these Regulations:

"Cayman Islands ship" means a ship which is registered in the Cayman Islands or a ship which is not registered under the law of any country but is wholly owned by persons each of whom is a citizen of the Cayman Islands or a body corporate which is established under the law of the Cayman Islands and has its principal place of business in a part of the Cayman Islands;

"Chief Marine Surveyor" means the Chief Marine Surveyor appointed by the Governor under the Merchant Shipping (Applicable Convention) Law 1987 or any person duly appointed by such Chief Marine Surveyor to act on his behalf;

"disposal" includes an escape;

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"garbage" means all kinds of victual, domestic and operational wastes 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" means those substances which are identified as marine pollutants in the IMDG Code and which are in the form of containment specified in the schedules of that Code;

"the IMDG Code" means the 1977 edition of the International Maritime Dangerous Goods Code published by the International Maritime Organisation, as amended from time to time by any document which is considered by the Secretary of State for Transport of the United Kingdom to be relevant and is specified in a Merchant Shipping Notice;

"Merchant Shipping Notice" means a Notice described as such issued by the United Kingdom Department of Transport and published by Her Majesty's Stationery office, and any reference to a particular Merchant Shipping Notice includes reference to that Notice as amended from time to time by a subsequent Notice;

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

"nearest land": in relation to all land other than the part of Australia specified below, "from the nearest land" means from the nearest baseline from which the territorial sea of any territory is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone 1958; and in relation to the part of the north-eastern coast of Australia which lies between the points 11° 00'S, 142° 08'E and 24° 42'S, 153° 15'E "from the nearest land" means from the nearest of the straight lines joining consecutively the following points:

11° 00'S, 142° 08'E; 10° 35'S, 141° 55'E; 10° 00'S, 142° 00'E; 9° 10'S, 143° 52'E; 9° 00'S, 144° 30'E; 13° 00'S, 144° 00'E; 15° 00'S, 146° 00'E; 18° 00'S, 147° 00'E; 21° 00'S, 153° 00'E and 24° 42'S, 153° 15'E;

"noxious liquid substances" and "non-polluting liquid substances" have the meanings respectively given to them in the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Cayman Islands) Regulations 1988;

"oil" and "oily mixtures" have the meanings respectively given to them in the Merchant Shipping (Prevention of Oil Pollution) (Cayman Islands) Regulations 1988;

"operational wastes" means all maintenance wastes, cargo associated wastes and cargo residues except residues or wastes from oil or oily mixtures, noxious liquid substances, non-polluting liquid substances or harmful substances in packaged form;

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

"required standard": "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;

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"sea" includes any estuary or arm of the sea;

"ship" means a vessel of any type whatsoever operating in the marine environment including submersible craft, floating craft and any structure which is a fixed or floating platform but excludes hovercraft;

"Special Area": any area which is defined by the Secretary of State for Transport of the United Kingdom in a Merchant Shipping Notice and which he therein declares will on a given date become a Special Area for the purposes of Annex V to the International Convention for the Prevention of Pollution from Ships 1973 as amended by the Protocol thereto of 1978, shall on and after that date be a Special Area for the purpose of these Regulations.

Application

2. These Regulations apply to Cayman Islands ships wherever they may be and to other ships while the within the Cayman Islands or the territorial waters thereof.

Disposal of Garbage outside Special Areas

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

4. The disposal from a ship into the sea outside a Special Area of garbage other than plastics 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 from the nearest land or, if such wastes and other garbage have been ground or comminuted to the required standard, not less than 3 miles from the nearest land.

Disposal of Garbage within Special Areas

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

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

Disposal of Garbage into the sea within 500 metres of fixed or floating platforms

7. 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 except that food wastes which have been comminuted or ground to the required standard may be disposed of into the sea from any such platform or from any ship alongside or within 500 metres of any such platform if the platform in question is located more than 12 miles from the nearest land.

Exemptions

8. The Chief Marine Surveyor may grant exemptions from all of any of the provisions of these Regulations (as may be specified in the exemption) for any class of cases or individual case on such terms (if any) as he may specify and may, subject to giving reasonable notice, alter or cancel any such exemption.