

No. S 123

**PREVENTION OF POLLUTION OF THE SEA ORDER, 2005
(S 18/05)**

**PREVENTION OF POLLUTION OF THE SEA
(GARBAGE) REGULATIONS, 2008**

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PREVENTION OF POLLUTION OF THE SEA ORDER, 2005
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(GARBAGE) REGULATIONS, 2008

In exercise of the power conferred by section 33 of the Prevention of Pollution of the Sea Order, 2005, the Minister of Communications, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation.

1. These Regulations may be cited as the Prevention of Pollution of the Sea (Garbage) Regulations, 2008.

Interpretation.

2. In these Regulations, unless the context otherwise requires —

"from the nearest land" means —

(a) in relation to all land other than the part of Australia referred to in paragraph *(b)*, from the baseline from which the territorial sea of the territory in question is established in accordance with international law;

(b) in relation to the part of the north-eastern coast of Australia, 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 10° 41' S, longitude 145° 00' E,

thence to a point latitude 13° 00' S, longitude 145° 00' E,

thence to a point latitude 15° 00' S, longitude 146° 00' E,

thence to a point latitude 17° 30' S, longitude 147° 00' E,

thence to a point latitude 21° 00' S, longitude 152° 55' E,

thence to a point latitude 24° 30' S, longitude 154° 00' E,

thence to a point on the coast of Australia

in latitude 24° 42' S, longitude 153° 15' E;

"Organisation" means the International Maritime Organisation;

"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 6.

Application.

3. Unless expressly provided otherwise, these Regulations shall apply to all ships.

Disposal of garbage outside special areas.

4. (1) Subject to regulations 5, 6 and 8 —

(a) the disposal 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 which may contain toxic or heavy metal residues, 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 paragraph (b)(ii) 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 millimetres.

(2) Where the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

Special requirements for disposal of garbage.

5. (1) Subject to sub-regulation (2), the disposal of any material regulated by these Regulations 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 metres 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 metres of such platforms. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 millimetres.

Disposal of garbage within special areas.

6. (1) For the purposes of these Regulations, 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 sea 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° 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);

(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 regulation 8 —

(a) disposal into the sea of the following is prohibited —

- (i) all plastics, including but not limited to synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products which may contain toxic or heavy metal residues; and
- (ii) all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;

(b) except as provided in paragraph (c), 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 millimetres.

(3) Where the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

Restriction on Brunei Darussalam ships entering Antarctic area.

7. A Brunei Darussalam ship shall not enter the Antarctic area unless —

(a) it has sufficient capacity for the retention on board of all garbage while operating in the area; and

(b) it has concluded arrangements for the discharge of retained garbage at a reception facility after it has left the area.

Exceptions.

8. Regulations 4, 5 and 6 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;

(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 nets, provided that all reasonable precautions have been taken to prevent such loss.

Provision of garbage reception facilities.

9. (1) Every operator of ports and terminals in Brunei Darussalam shall undertake to ensure adequate provision of garbage reception facilities at the ports and terminals for the reception of garbage, without causing delay to ships, and according to the needs of the ship using them.

(2) For the purposes of this regulation —

(a) operator means an authority that owns or manages a port or terminal;

(b) garbage facilities are considered to be adequate if they are suitable for use by ships using the port or terminal concerned and if the use of the facilities does not cause undue delay to the ships.

(3) Sub-regulation (1) does not apply to the operator of an oil or chemical terminal managed by him unless the Director has served on him a notice to provide adequate garbage reception facilities at the terminal.

(4) The Director may, by notice in writing, requires any person whom the Director has reason to believe has any information in respect of any garbage reception facility at the port or any terminal to furnish him with the information in the manner specified in the notice.

(5) The operator or any person providing the facilities may –

(a) impose conditions in respect of the use thereof insofar as such conditions are not in conflict with the requirements of these Regulations; and

(b) levy reasonable charges for the use of the facilities.

(6) Any garbage reception facility provided at the port or any terminal shall be made available for use by any ship which uses the port or terminal for a primary purpose other than the use of those facilities on payment of any charges levied and subject to compliance with any conditions imposed in accordance with sub-regulation (5).

(7) The master of any ship which intends to use the reception facilities shall give advance notice to the operator and the person providing the reception facilities of the quantity and content of the garbage to be discharged within such time and in such manner and form as the operator may determine.

(8) In the absence of an agreement between the owner of the cargo and the owner of the ship as to responsibility for payment to the person providing the reception facilities, the owner of the ship shall be liable to pay the charges to that person.

Port State control on operational requirements.

10. (1) A ship when in a port of Brunei Darussalam is subject to inspection by officers duly authorised by the Director concerning operational requirements under these Regulations, 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) An inspection referred to under sub-regulation (1) shall be carried out in accordance to the Procedures for port State control adopted by the Organisation by resolution A.787(19) and amended by A.882(21) and as further amended or revised from time to time.

(3) In the circumstances given in sub-regulation (1), the Director 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 these Regulations.

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

(5) Nothing in this regulation shall be construed to limit the rights and obligation of the Director carrying out control over operational requirements specifically provided for in the present Convention.

Placards.

11. (1) Every ship of 12 metres or more in length overall shall display placards which notify the crew and passengers of the disposal requirements under regulations 4 and 6, as applicable.

(2) In the case of a Brunei Darussalam ship, the information on the placards shall be written in English and, where the working language of the crew is not English, in the working language.

(3) In the case of a ship which is not a Brunei Darussalam ship, the placards shall be written in the working language of the ship's personnel and, where the ship is engaged on a voyage to a port or offshore terminal under the jurisdiction of a Party to the Convention, also in English, French or Spanish.

Garbage management plan.

12. (1) Every ship —

(a) of 400 gross tonnage and above; or

(b) which is certified to carry 15 persons or more,

shall carry a garbage management plan which shall —

(i) provide written procedures for collecting, storing, processing and disposing of garbage, including the use of equipment on board;

(ii) designate the person in charge of carrying out the plan;

- (iii) be in accordance with the guidelines for the development of garbage management plans adopted by the Marine Environment Protection Committee of the Organisation by resolution MEPC.71(38), as amended or revised from time to time; and
- (iv) be in the following languages –
 - (A) in the case of a Brunei Darussalam ship, English and the working language of the crew if it is not English; or
 - (B) in the case of a ship which is not a Brunei Darussalam ship, the working language of the crew.

(2) The crew of a ship which is required to carry a garbage management plan under this regulation shall follow that plan.

Garbage record book.

13. (1) Every ship of 400 gross tonnage and above and every ship certified to carry 15 persons or more engaged in voyages to ports or offshore terminals outside Brunei Darussalam and every fixed and floating platform engaged in exploration and exploitation of the sea-bed shall be provided with a garbage record book.

(2) The garbage record book referred to in sub-regulation (1), whether as a part of its official log-book or otherwise, shall be in such form as specified in the First Schedule.

(3) Each discharge operation, or completed incineration, shall be recorded in the garbage record book and sign for on the date of incineration or discharge by the officer in charge.

(4) Each completed page of the garbage record book shall be signed by the master of the ship.

(5) The entries in the garbage record book shall be at least in English. Where the entries are also made in an official language of the State whose flag the ship is entitled to fly, these entries shall prevail in case of a dispute or discrepancy.

(6) The entry for each incineration or discharge shall include the date and time, position of the ship, description of the garbage and the estimated amount incinerated or discharged;

(7) The garbage record book shall —

(a) be kept on board the ship and in such a place as to be available for inspection at a reasonable time;

(b) be preserved for a period of 2 years after the last entry is made on the record.

(8) In the event of discharge, escape or accidental loss referred to in regulation 8, an entry shall be made in the garbage record book of the circumstances of, and of the reasons for, the discharge, escape or accidental loss.

(9) The Director may waive the requirement for a garbage record book for —

(a) any ship engaged on a voyage of one hour or less in duration which is certified to carry 15 persons or more; or

(b) any fixed or floating platform while engaged in exploration and exploitation of the sea-bed.

(10) The Director may inspect the garbage record book on board any ship to which this regulation applies while the ship is in ports or offshore terminals of Brunei Darussalam 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.

(11) 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 facts stated in the entry.

(12) The inspection of a garbage record book and taking of a certified copy by the Director under this regulation shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Offences.

14. A contravention of any of the provisions of these Regulations shall be an offence on the part of the owner, manager, agent, charterer and master of the ship at the time of the offence, each of whom shall be liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 2 years or both.

Fee.

15. The fee specified in the Second Schedule shall be payable to the Director.

FIRST SCHEDULE

(regulation 13(2))

FORM OF GARBAGE RECORD BOOK

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 ship 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.

* Refer to the Guidelines for the Implementation of Annex V of MARPOL 73/78 as amended, revised or replaced from time to time.

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. Cargo residues, paper products, rags, glass, metal, bottles, crockery, etc.
5. Food waste
6. Incinerator ash.

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). Note: for cargo residue discharges, include discharge start and stop positions.
- (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 the 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 or 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 2 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 or estimating amounts of garbage is left to interpretation. Volume estimates will differ before and after processing. Some processing procedures may not allow for a usable estimate of volume, for example, the continuous processing of food waste. Such factors should be taken into consideration when making and interpreting entries made in a record.

SECOND SCHEDULE

(regulation 15)

FEE

Review and approval of garbage management plan, garbage record book and other documents	\$200
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Made this 13th. day of Zulhijjah, 1429 Hijriah corresponding to the
11th. day of December, 2008.

**PEHIN ORANG KAYA SERI KERNA DATO SERI SETIA
DR. HAJI AWANG ABU BAKAR BIN HAJI APONG
Minister of Communications,
Brunei Darussalam.**