

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3567 of 23 November, 2006

LEGAL NOTICE NO. 132 OF 2006.

GIBRALTAR MERCHANT SHIPPING (SAFETY, ETC.) ORDINANCE, 1993

GIBRALTAR MERCHANT SHIPPING (PORT WASTE RECEPTION FACILITIES) (AMENDMENT) REGULATIONS 2006

In exercise of the powers conferred on it by sections 98 and 110 of the Gibraltar Merchant Shipping (Safety, etc.) Ordinance, 1993 and all other enabling powers, the Government, for the purpose of giving full effect to Directive 2000/59/EC of the European Parliament and of the Council on port reception facilities for ship-generated waste and cargo residues, as regards the delivery of sewage to reception facilities in the Port of Gibraltar, has made the following Regulations.

Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Port Waste Reception Facilities) (Amendment) Regulations 2006 and come into operation on a day to be appointed by the Minister by notice in the Gazette.

Amendments to the Gibraltar Merchant Shipping (Port Waste Reception Facilities) Regulations, 2002.

2. The Gibraltar Merchant Shipping (Port Waste Reception Facilities) Regulations, 2002 (the principal Regulations) are amended—

- (a) in regulation 1, by substituting “the Port and Shipping” for “Transport”;
- (b) in regulation 2(1), by—
 - (i) inserting the following definition after the definition of “cargo residues”—

“contractor” means a contractor appointed by the Minister for carrying out duties in connection with a waste reception and handling plan prepared under these Regulations;”;

- (ii) inserting the following definition after the definition of “Directive”–

““EEA State” means a Member State, Norway, Iceland or Liechtenstein;”;

- (iii) substituting the following definition for the definition of “Minister”–

““Minister” means the Minister with responsibility for the Port and Shipping;”;

- (iv) inserting the following definition after the definition of “Minister”–

““new ship” means a ship–

- (a) in respect of which a building contract was placed on or after 27th September 2003;
- (b) in the absence of a building contract, the keel of which was laid or which was at a similar stage of construction on or after 27th September 2003; or
- (c) the delivery of which is on or after 27th September 2006;”;

- (iv) substituting the following definition for the definition of “port authority” –

““port authority” means the Gibraltar Port Authority established by section 3 of the Gibraltar Port Authority Ordinance 2005;”;

- (v) substituting the following definition for the definition of “prescribed waste”–

““prescribed waste” means any waste of the following descriptions–

- (a) cargo residues;
- (b) noxious liquid substances;
- (c) ship-generated waste; and
- (d) ship-generated sewage;”;

(vi) inserting the following definitions after the definition of “recreational craft”–

““sewage” means–

- (a) drainage and other wastes from any form of toilet and urinal on board a ship;
- (b) drainage from medical premises, including a dispensary and a sick bay, via a wash basin, a wash tub or a scupper located in those premises;
- (c) drainage from spaces containing living animals; or
- (d) other waste waters when mixed with any drainage referred to in paragraphs (a), (b) and (c);

“ship-generated sewage” means all sewage which is generated during the service of a ship;

“similar stage of construction” means–

- (a) a stage at which construction identifiable with a specific ship begins; and
- (b) assembly of that ship has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is the less;”;

(c) by adding the following subregulation after subregulation (3)–

“(4) Any power under these Regulations to give a direction includes power to vary or revoke the direction by a subsequent direction.”.

Amendments to regulation 3.

3. Regulation 3 of the principal Regulations is amended–

- (a) in subregulation (1)(b) by inserting “subject to subregulations (2), (3), and (4)” after the words “port Waters”; and
- (b) by adding the following subregulation after subregulation (3)–

“(4) In so far as–

- (a) the notice referred to in subregulation (1) of regulation 12;
- (b) regulation 13A; and
- (c) the charges referred to in subregulation (1) or (2) of regulation 14,

respectively relate to ship-generated sewage, regulations 12, 13A and 14 shall not apply to existing ships until on and after 27th September 2008.”.

Amendments to regulation 12.

3. Regulation 12 of the principal Regulations is amended–

- (a) in subregulation (4)(a) by substituting “ an EEA State” for “ a Member State”; and
- (b) for subregulation (5), by substituting the following subregulation–

“(5) The master of a Gibraltar registered ship calling at a port of another EEA State shall–

- (a) if the previous port of call of the ship was a port in an EEA State; and

- (b) the Administration of the EEA State where the ship is calling requests it,

produce to the Administration, immediately on request, a copy of the notice retained in accordance with subregulation (4).”.

Insertion of regulation 13A.

4. The principal Regulations are amended by inserting the following regulation after regulation 13–

“Delivery of ship-generated sewage.

13A.(1) Subject to subregulation (2), the master of a ship calling at the Port of Gibraltar shall ensure that before the ship leaves the Port of Gibraltar all ship-generated sewage is delivered to a waste reception facility.

(2) Subject to subregulation (3), a ship may proceed to the next port of call without delivering ship-generated sewage if it follows from the information notified under regulation 12(2) that there is sufficient dedicated storage capacity for all the ship-generated sewage that has been accumulated and will be accumulated during the intended voyage of the ship to the port of delivery.

(3) Where–

(a) the Administration is not satisfied that there is sufficient dedicated storage capacity for all ship-generated sewage that has been accumulated and which will accumulate during the intended voyage of a ship to the port of delivery;

(b) there are good reasons to believe that adequate facilities are not available at the intended port of delivery; or

(c) the intended port of delivery is not known to the Administration,

it may give a direction to the master or owner of the ship requiring the ship-generated sewage to be delivered before the ship leaves the Port of Gibraltar.”.

Insertion of regulation 14A.

5. The principal Regulations are amended by inserting the following regulation after regulation 14–

“Charges for ship-generated sewage.

14A.(1) Subject to subregulation (2), the Minister shall make sewage charges in respect of ships to which this regulation applies.

(2) Where the waste reception and handling plan specifies that in relation to a specified terminal the sewage charges under this regulation are to be made by a contractor rather than the port authority, the contractor shall make sewage charges for ships which use the facility and to which this regulation applies.

(3) The Minister, or the contractor, shall arrange for the amount of the sewage charges made by him, and the basis on which they have been calculated, to be published in such manner as will bring them to the notice of persons likely to be affected.

(3) Any ship using the port of Gibraltar shall pay the sewage charges made under subregulation (1) to the port authority or the contractor, as the case may be.

(4) Sewage charges shall be made at such level as will–

(a) ensure that each ship to which this regulation applies makes a significant contribution to the costs of waste reception facilities for ship-generated sewage in the Port of Gibraltar (including the costs of the treatment and disposal of sewage), irrespective of actual use of the facilities; and

(b) provide no incentive for ships to discharge ship-generated sewage into the sea.

(5) In making sewage charges for ships the Minister or the contractor may take into account the category, type and size of the ship.

(6) The Minister or the contractor may make lower sewage charges for any ship the environmental management, design, equipment and operation of which are such that the master can demonstrate the ship produces reduced quantities of ship-generated sewage.

(7) In making sewage charges under this regulation, the Minister or the contractor may make the charges as a combined charge or as a separate charge.”.

Amendments to regulation 15.

6. Regulation 15 of the principal Regulations is amended by inserting the following subregulation after subregulation (3)–

“(3A) The Minister may grant an exemption from regulations 13A and 14A in respect of a ship where–

(a) the ship is engaged in scheduled traffic with frequent and regular port calls; and

(b) there is sufficient evidence of an arrangement ensuring the delivery of ship-generated sewage and payment of charges in a port along the ship’s route.”.

Amendments to regulation 17.

7. Regulation 17 of the principal Regulations is amended in subregulation (2) by substituting “an EEA State” for “a Member State”.

Amendments to regulation 18.

8. Regulation 18 of the principal Regulations is amended–

- (a) in subregulation (1) by inserting “or sewage has been delivered in accordance with regulation 13A(1)” after “ with regulation 13(1) or 16(1)”;
- (b) in subregulation (3) by–
 - (i) inserting “or sewage has not been delivered in accordance with regulation 13A(1)” after “ with regulation 13(1) or 16(1)” ; and
 - (ii) inserting “ or sewage” after “until such waste or residues” ; and
- (c) in subregulation (4) by substituting “ If a ship which is not registered in Gibraltar is detained under subregulation (3)” for “ If a ship is detained under subregulation (2)” ; and
- (d) by inserting the following subregulation after subregulation (5)–
 - “ (6) The relevant surveyor or inspector shall not, in the exercise of his power under this regulation, detain or delay the ship unreasonably.”.

Amendments to regulation 19.

9. Regulation 19 of the principal Regulations is amended–

- (a) in subregulation (1) by–
 - (i) inserting “,13A(1)” after “13(1)” ; and
 - (ii) inserting “ or sewage” after “ cargo residues” ; and
- (b) in subregulation (2) by inserting “ or sewage” after “ cargo residues” appearing twice.

Amendments to regulation 20.

10. Regulation 20 of the principal Regulations is substituted by the following–

“20.(1) Where any requirement of regulation 12, 13(1), 13A(1), 14(4), 14A(3) or 16 is contravened in respect of a ship or any master of a ship fails to comply with any of the requirements of those regulations, the owner and the master of the ship shall each be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(2) Where an offence is committed under regulation 19(7), the owner and master of the ship shall each be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”.

Amendments to Schedule 3.

11. Schedule 3 of the principal Regulations is amended by substituting the following paragraph and table for paragraph 9 and the table—

“9. Type and amount of waste, sewage and cargo residues to be delivered and/or remaining on board, and percentage of maximum storage capacity:

*If delivering all waste, complete second column as appropriate.
If delivering some or no waste, complete all columns.*

Type	Waste to be delivered	Maximum dedicated storage capacity m ³	Amount of waste retained on board m ³	Port at which remaining waste will be delivered	Estimated amount of waste to be generated between notification and next port of call m ³
1. Waste oils					
Sludge					
Bilge water					
Others (specify)					
2. Garbage					

Food waste					
Plastic					
Other					
Cargo-associated waste (specify)					
Cargo residues (specify)					
3.Sewage (specify)					

Dated this 23 rd day of November, 2006.

J J HOLLIDAY,

Minister with responsibility
for the Port and Shipping.

EXPLANATORY MEMORANDUM

These Regulations amend the Gibraltar Merchant Shipping (Port Waste Reception Facilities) Regulations, 2002. The purpose of these Regulations are to give full effect to Directive 2000/59/EC of the European Parliament and of the Council on port reception facilities for ship-generated waste and cargo residues, as regards the delivery of sewage to reception facilities in the Port of Gibraltar.

**Printed by the Gibraltar Chronicle Limited
Printing Office, 2, Library Gardens,
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price £0.60p**