

SUBSIDIARY LEGISLATION 499.30

**PORT RECEPTION FACILITIES FOR SHIP-
GENERATED WASTES AND CARGO RESIDUES
REGULATIONS**

15th May, 2004

LEGAL NOTICE 278 of 2004, as amended by Legal Notices 290 of 2006 and 425 of 2007; Act XV of 2009; and Legal Notices 332 of 2012 and 364 of 2016.

1. The title of these regulations is the Port Reception Facilities for Ship-generated Wastes and Cargo Residues Regulations. Citation.

2. These regulations bring into effect the provisions of the European Council Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000, as subsequently amended by Commission Directive (EU) 2015/2087 of 18 November 2015, on port reception facilities for ship-generated waste and cargo residues. The purpose of this Directive is to reduce the discharges of ship-generated waste and cargo residues into the sea, thereby enhancing the protection of the marine environment. Scope.
*Substituted by:
L.N. 364 of 2016.*

3. (1) In these regulations, unless the context otherwise requires: Interpretation.
*Amended by:
XV. 2009.49.*

"the Act" means the Authority for Transport in Malta Act; Cap. 449.

"appropriate inspector" shall mean any officer representing the Authority and appointed in terms of the Merchant Shipping Act; Cap. 234.

"the Authority" means the Authority for Transport in Malta as established by the Act;

"authorised port reception facility" shall mean a port waste reception facility that holds a valid permit issued under the Waste Regulations, made under the Environment Protection Act; S.L. 549.63
Cap. 549.

"cargo residues" means the remnants of any cargo material on board in cargo holds or tanks which remain after unloading procedures and cleaning operations are completed and shall include loading/unloading excesses and spillage;

"MARPOL 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as amended from time to time;

"fishing vessel" means any ship equipped or used commercially for catching fish or other living resources at sea;

"port" means a place or a geographical area made up of such improvement works and equipment as to permit, principally, the reception of ships, including fishing vessels and recreational craft;

"port reception facility" means any facility which is fixed,

floating or mobile and capable of receiving ship-generated waste or cargo residues;

"recreational craft" means a ship of any type, regardless of the means of propulsion, which is intended for sports or leisure purposes;

"ship" means a sea-going vessel of any type whatsoever operating in the marine environment and shall include hydrofoil boats, air-cushion vehicles, submersibles and floating craft;

"ship-generated waste" means all waste, including sewage, and residues other than cargo residues, that are generated during the service of a ship and fall under the scope of Annexes I, IV and V to MARPOL 73/78 and cargo-associated waste as defined in the Guidelines for the implementation of Annex V to MARPOL 73/78;

"terminal" means a place where ships are moored, berthed or docked to obtain services such as handling of cargo or passengers, repairs, waste removal, bunkering, laid-up and any other services related to ships and maritime activities.

(2) Without prejudice to the above definitions of "ship-generated waste" and "cargo residues", they shall be considered to be waste within the meaning of Article 1(a) of Council Directive 75/44/EEC of 15 July 1975 on waste.

(3) For the purpose of these regulations the competent authority in Malta shall be the Authority for Transport in Malta, and in respect of any other state the authority designated as such by the Government.

Applicability.

4. (1) These regulations shall apply to any port or terminal within a port in Malta.

(2) These regulations shall apply to all ships including fishing vessels and recreational craft, irrespective of their flag, calling at any port or terminal in Malta, with the exception of warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

(3) Regulations 7 and 9 do not apply to a ship which is -

(a) a fishing vessel, or

(b) a recreational craft authorized to carry, or designed to carry, no more than 12 passengers.

Cap. 549.
S.L. 549.63

(4) These regulations shall apply without prejudice to any regulations issued under the Environment Protection Act, in particular the Waste Regulations.

Port reception facilities.

5. (1) The port or terminal operator shall ensure that adequate authorized port reception facilities be available to meet the needs of ships normally using the port or terminal in question without causing undue delay to ships.

(2) In subregulation (1) "adequate" means capable of receiving the types and quantities of prescribed ship-generated wastes and cargo residues from ships normally using that port or terminal taking into account the operational needs of the users of the port or

terminal, its size and geographical location, the types of ships calling there and any exemptions provided for under regulation 10.

(3) A port or terminal operator may, in discharging his duty under subregulation (1), join with any other person in providing the port reception facilities, and references in these regulations to the provision of such facilities by the port or terminal operator shall be construed accordingly, and any such power shall also include power to arrange for the provision of such port reception facilities by any other person.

6. (1) A port or terminal operator shall prepare a waste management plan with respect to the provision and use of port reception facilities in consultation with all stake holders.

Waste
management plans.
Amended by:
XV. 2009.49.

(2) A waste management plan prepared under this regulation shall comply with the requirements in the First Schedule.

(3) Subject to subregulation (5), a port or terminal operator shall submit its first waste management plan to the Authority for approval in accordance with subregulation (1) within six months from the coming into force of these regulations.

(4) A port operator for a new port, or a terminal operator for a new terminal shall submit a waste management plan to the Authority for approval in accordance with subregulation (1), within three months from its first day of operation.

(5) A port or terminal operator shall submit subsequent waste management plans to the Authority for approval in accordance with subregulation (1) -

- (a) within nine months of any significant change to the operation of the port or terminal since the most recent waste management plan was approved by the Authority pursuant to subregulation (8) or prepared by him pursuant to subregulation (6); or
- (b) no later than three years after the most recent plan was approved by the Authority pursuant to subregulation (7) or prepared by him pursuant to subregulation (6), whichever is the sooner.

(6) If the Authority is satisfied that a person who is required to prepare a waste management plan is not taking any steps necessary in connection with the preparation of the plan the Authority may, in consultation with the competent authority nominated by the Minister responsible for the environment under the Environment Protection Act, prepare such a plan.

Cap. 549.

(7) The Authority may, in consultation with the competent authority nominated by the Minister responsible for the environment under the Environment Protection Act, either approve the waste management plan or request modifications thereto and a modified plan to be submitted within a date as directed by the Authority.

Cap. 549.

(8) A waste management plan that has been approved by the Authority pursuant to subregulation (7) or prepared by the Authority pursuant to subregulation (6) shall be implemented by

the port or the terminal operator for the port or terminal to which the plan relates.

(9) The Authority may direct a port or terminal operator to take such steps as are specified for the purposes of ensuring the implementation of a waste management plan.

Notification.
Amended by:
XV. 2009.49;
L.N. 332 of 2012.

7. (1) The Master or the agent of a ship, other than a fishing vessel or recreational craft authorised to carry no more than 12 passengers, bound for a port or terminal shall complete truly and accurately the form in the Second Schedule and notify that information to the Authority -

- (a) at least 24 hours prior to arrival, if the port of call is known; or
- (b) as soon as the port of call is known, if this information is available less than 24 hours prior to arrival; or
- (c) at the latest upon departure from the previous port, if the duration of the voyage is less than 24 hours.

(2) It shall be the duty of the Master or the agent of a ship to communicate also such information to the port or terminal operator at which the ship will be calling and to call for the authorised port reception facility.

(3) The information referred to in subregulation (1) shall be kept on board at least until the next port of call and shall, upon request, be made available to the competent authority.

(4) Any notification or reporting formality obligation that is required in accordance with the provisions of these regulations shall be subject to the provisions of the Vessel Traffic Monitoring and Reporting Requirements Regulations.

S.L. 499.34

Delivery of ship-generated waste.
Amended by:
XV. 2009.49.

8. (1) The Master of a ship calling at a port or terminal shall, before leaving the port or terminal, deliver all ship-generated waste to an authorized port reception facility.

(2) Notwithstanding subregulation (1), a ship may proceed to the next port of call without delivering the ship-generated waste, if it follows from the information given in accordance with regulation 7 and the Second Schedule that there is sufficient dedicated storage capacity for all ship-generated waste that has been accumulated thereon and will be accumulated thereon during the intended voyage of the ship until the port of delivery.

(3) If there are good reasons to believe that adequate facilities are not available at the intended port of delivery, or if this port is unknown, and that there is therefore a risk that the ship-generated waste will be discharged at sea, the Authority may request the Master or agent of the ship to deliver its ship-generated waste before departure from the port or terminal.

Fees for ship-generated waste.
Amended by:
XV. 2009.49.

9. (1) The Authority shall ensure that the costs of port reception facilities for ship-generated waste, including the treatment and disposal of the ship-generated waste, shall -

- (a) be covered through the collection of a fee from ships;

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

(2) All ships, other than fishing vessels and recreational craft authorized to carry no more than 12 passengers, calling at a port or terminal, including those that have not delivered ship-generated waste before leaving the port or terminal, shall in order to contribute significantly to the costs referred to in subregulation (1), irrespective of actual use of the facilities, pay a fee to the Authority.

(3) The fee payable to the Authority under this regulation shall be as established, from time to time, by the Authority and may differentiate with respect to, inter alia, the category, type and size of the ship.

(4) The Authority shall arrange for the amount of the fee made by him, and the basis on which it has been calculated, to be published in such manner as will bring it to the notice of persons likely to be affected.

10. When ships are engaged in scheduled traffic with frequent and regular port calls and there is sufficient evidence of an arrangement to ensure the delivery of ship-generated waste and payment of fees in a port along the ship's route, the Authority may exempt these ships from the obligations in regulations 7, 8 and 9.

Exemptions.
Amended by:
XV. 2009.49.

11. The Master of a ship calling at a port or terminal shall ensure that cargo residues are delivered to an authorized port reception facility in accordance with the provision of MARPOL 73/78. Any fee for delivery of cargo residues shall be paid by the user of the authorized port reception facility.

Delivery of cargo
residues.

12. (1) The Authority shall ensure that any ship may be subject to an inspection in order to verify that it complies with the provisions of these regulations.

Enforcement.
Amended by:
XV. 2009.49.

(2) Where the Authority becomes aware or has clear evidence that the Master or the agent of a ship has not complied with the provisions of regulations 7, 8 and 11, or considers that there are clear grounds for believing that the declaration made as per the Second Schedule does not correspond substantially with the state of the ship, it may request an inspection of the ship by an appropriate inspector.

(3) The Authority may detain a ship in the port if it did not deliver its ship-generated wastes or cargo residues in accordance with these regulations until such a date to ensure compliance with the provisions of these regulations.

(4) Where there is clear evidence that a ship has proceeded to sea without having complied with 8(1) or 11, the Authority shall, if the next port of call of the ship is a port of another member State, inform the competent authority of the State in which the port is situated about the ship and the evidence.

(5) Where the Authority has been informed by the competent authority of another state of a ship in respect of which there is clear evidence of the type mentioned in subregulation (2), the Authority

may request an inspection of the ship by an appropriate inspector at the earliest opportunity.

(6) The Authority shall not in the exercise of its power under this regulation detain or delay the ship without any reason.

Investigation.
Amended by:
XV. 2009.49.

13. (1) The Authority shall appoint any person to examine, investigate or inspect a port or terminal, or an authorized port reception facility or any relevant document. A person appointed by the Authority to carry out such functions shall have power to -

- (a) board freely, and without previous notice, a ship at any place and at any time of day or night;
- (b) enter into freely, and without previous notice, any port or terminal operator's premises or building at any place and at any time of day or night;
- (c) request the assistance of a member of the Police force in the execution of his duties;
- (d) question any person connected with the execution of these regulations;
- (e) inspect any document the keeping of which is prescribed by these regulations.

(2) Whoever shall hinder or obstruct a person appointed by the Authority from allowing him to carry out his duties under these regulations or refuses to comply with the directions which he may give shall be guilty of an offence.

Directives by the
Authority.
Amended by:
XV. 2009.49.

14. The Authority may issue directives to port or terminal operators and Masters and agents of ships in respect of the removal of ship-generated wastes or cargo residues from ships or a port or a terminal for the purpose of avoiding inconvenience, accidents or pollution to the marine environment.

Observance of
these regulations.

15. The liability and responsibility for the observance of these regulations shall rest solely with the port or terminal operator, authorized port reception facility, authorized undertaking and the Master and agent of a ship. The Authority shall not be held liable for any consequences arising from any acts or omissions in respect of any of the requirements of these regulations.

Statistics and other
information.
Added by:
L.N. 364 of 2016.

16. Any person shall provide the Authority, when requested to do so and without delay, all statistics and other information, pursuant to the provisions of these regulations, requested by the Authority from time to time, in such format as the Authority may prescribe.

Offences and
penalties.
Amended by:
L.N. 425 of 2007;
XV. 2009.49.
Re-numbered by:
L.N. 364 of 2016.

17. (1) If a port operator or terminal operator or Master or agent of a ship fails to comply with any of the requirements of these regulations or directives given by the Authority or the provisions of the Waste Management Plan, the Authority shall hand over to such person a notice containing a general description of the offence and may -

- (a) require the Master or agent of a ship to remove ship-generated waste or cargo residues within such a time

and to such a place as he may require and if he fails to comply, the Authority may cause removal of such waste at the risk and expense of the Master and agent of the ship;

- (b) impose a penalty of not more than €11,646.87 in respect of each such offence and in the case of a continuing offence or offences, to a further fine not exceeding €1,164.69 for each offence for every day or part thereof;
- (c) the penalty shall be paid to the Authority within such time indicated in the notice, which in no case shall be less than seven days, provided that where any penalty imposed under this regulation is not paid within the aforementioned period, ordinary proceedings in respect of the offence may be taken in accordance with the provisions of these regulations;
- (d) notwithstanding paragraphs (a) and (b), the Authority may also order the detention of ship until such time as the contravention is rectified.

(2) The compliance of the port operator or terminal operator or Master or agent of a ship with the provisions of subregulation (1) shall for all intents and purposes of law, be deemed to be an admission of the commission of the offence, and no further action shall be taken in respect of such offence.

(3) Where any offence against the provisions of these regulations is committed by a body of persons or body corporate, every person who, at the time of the commission of the offence was a director, manager or other similar officer of such body of persons or body corporate, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

(4) Whenever, a port operator or terminal operator or Master or agent of a ship fails to comply with the provision of subregulation (1), the Authority may commence proceedings for an offence against these regulations before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature. The fine (*multa*) for a first offence shall not exceed €11,646.87 for each such offence, and in the case of a continuing offence or offences, to a further fine not exceeding €1,164.69 for each offence for every day or part thereof.

Cap. 9.

18. Without prejudice to the provisions of regulation 9, all other fees payable to the Authority in terms of these regulations shall be as established, from time to time, by the Authority.

Other fees.
Added by:
L.N. 364 of 2016.

FIRST SCHEDULE

Requirements for Waste Management Plans in ports

(as referred to in regulation 6)

1. A Waste Management Plan shall cover all types of ship-generated waste and cargo residues originating from ships normally visiting the port or terminal and shall be developed according to the size of the port or terminal and the types of ships calling at that port or terminal.

2. A Waste Management Plan shall address the following elements:

- (a) an assessment of the need for port reception facilities, in light of the need of the ships normally visiting the port or terminal;
- (b) a description of the type and capacity of port reception facilities;
- (c) a detailed description of the procedures for the reception and collection of ship-generated waste and cargo residues;
- (d) description of the charging system;
- (e) procedures for reporting alleged inadequacies of port reception facilities;
- (f) procedures for ongoing consultations with port or terminal users, authorized waste management undertakings, terminal operators and other interested parties; and
- (g) type and quantities of ship-generated waste and cargo residues handled.

3. In addition, the waste management plan should include:

- (a) a summary of relevant legislation and formalities for delivery;
- (b) identification of a person or persons to be responsible for the implementation of the waste management plan;
- (c) a description of the pre-treatment equipment and process in the port or terminal, if any;
- (d) a description of methods of recording actual use of the port reception facilities;
- (e) a description of methods of recording amounts of ship-generated waste and cargo residues received; and
- (f) a description of how the ship-generated waste and cargo residues are disposed of.

The procedures for reception, collection, storage, treatment and disposal should conform in all respects to an environmental management scheme suitable for the progressive reduction of the environmental impact of these activities. Such conformity is presumed if the procedures are in compliance with the Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March, 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme.

4. A Waste Management Plan shall provide for the following information to be made available to all port users using the port or terminal:

- (a) brief reference to fundamental importance of proper delivery of ship-generated waste and cargo residues;
- (b) location of port reception facilities, applicable to each berth, with

- diagram/map;
- (c) list of ship-generated waste and cargo residues normally dealt with;
 - (d) list of contact points, the operations and the services offered;
 - (e) description of procedures for delivery;
 - (f) description of charging system; and
 - (g) procedures for reporting alleged inadequacies of port reception facilities.

SECOND SCHEDULE

*Amended by:
L.N. 290 of 2006.
Substituted by:
L.N. 364 of 2016.*

INFORMATION TO BE NOTIFIED BEFORE ENTRY INTO
THE PORT OF

(Port of destination as referred to in Article 6 of Directive 2000/59/EC)

1. Name, call sign and, where appropriate, IMO identification of the ship:
2. Flag State:
3. Estimated time of arrival (ETA):
4. Estimated time of departure (ETD):
5. Previous port of call:
6. Next port of call:
7. Last port and date when ship-generated waste was delivered, including the quantities (in m³) and the types of waste that were delivered:
8. Are you delivering (tick appropriate box):
all some none
of your waste into port reception facilities?
9. Type and amount of waste and residues to be delivered and/or remaining on board, and percentage of maximum storage capacity:

If delivering all waste, complete second and last columns as appropriate. If delivering some or no waste, complete all columns.

Type	Waste to be delivered (m ³)	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)	Waste that has been delivered at last port of delivery identified under point 7 above (m ³)
Waste Oils						
Oily Bilge Water						

Oily residues (sludge)						
Other (specify)						
Sewage ⁽¹⁾						
Garbage						
Plastics						
Food Waste						
Domestic wastes (e.g. paper products, rags, glass, metal, bottles, crockery, etc.)						
Cooking oil						
Incinerator ashes						
Operational wastes						
Animal carcass(es)						
Cargo residues ⁽²⁾ (specify) ⁽³⁾						
⁽¹⁾ Sewage may be discharged at sea in accordance with Regulation 11 of MARPOL Annex IV. The corresponding boxes do not need to be completed if it is the intention to make an authorised discharge at sea.						
⁽²⁾ May be estimates.						
⁽³⁾ Cargo residues shall be specified and categorised according to the relevant Annexes of MAPROL, in particular MARPOL Annexes I, II and V.						

Notes

1. This information may be used for port State control and other inspection purposes.
2. The Authority shall determine which other entities and bodies will receive copies of this notification.
3. This form is to be completed unless the ship is covered by an exemption in accordance with regulation 10 of the Port Reception Facilities for Ship-Generated Wastes and Cargo Residues Regulations (S.L. 499.30).

I confirm that:

- the above details are accurate and correct; and
- there is sufficient dedicated onboard capacity to store all waste generated between notification and the next port at which waste will be delivered.

Date

Time

Signature

Name in full

(Capital Letters)
