



Australian Government
Australian Maritime Safety Authority

MARINE ORDERS

Part 95

Marine Pollution Prevention— Garbage

Issue 3

Order No.13 of 2002

Pursuant to section 34(1) of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*, I hereby make this Order repealing Marine Orders Part 95, Issue 2, and issuing the attached Marine Orders Part 95, Issue 3, to come into operation on 1 January 2003.

Roger Timms
Acting Chief Executive Officer
4 December 2002

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Previous issues

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1 Purpose

Paragraph 33(1)(a) of the Pollution Prevention Act provides for regulations to be made prescribing matters for and in relation to giving effect to MARPOL, other than provisions of MARPOL to which effect is given by a provision of the Act. Subsection 34(1) of the Pollution Prevention Act provides that AMSA may make orders with respect to any matter for or in relation to which provision may be made by regulation. This Part of Marine Orders gives effect to Regulation 8 and prescribes matters in relation to Regulation 9 of Annex V of MARPOL.

2 Definitions of words and phrases used in this Part

AMSA means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*;

Chief Marine Surveyor means the person occupying the position of Manager, Ship Inspections, in AMSA or, in respect of any particular purpose under this Part, a suitably qualified person authorised by the Manager, Ship Inspections, for that purpose;

General Manager means the person occupying the position of General Manager, Maritime Operations, in AMSA;

IMO means the International Maritime Organization;

MARPOL has the same meaning as 'the Convention' in the Pollution Prevention Act;¹

penal provision means a penal provision for the purposes of Regulation 4 of the Protection of the Sea (Prevention of Pollution from Ships)(Orders) Regulations.²;

Pollution Prevention Act means the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*;

surveyor means a person appointed to be a surveyor under section 190 of the *Navigation Act 1912*;

¹ MARPOL is to be found in a Consolidated Edition, 2002, published by IMO, and has been revised by IMO Resolution MEPC.95(46).

² Regulation 4 of the Protection of the Sea (Prevention of Pollution from Ships) (Orders) Regulations provides that a person must not contravene a provision of an order made under subsection 34 (1) of the Pollution Prevention Act that is expressed to be a penal provision. The penalty is 20 penalty units or, in the case of a body corporate, 50 penalty units. A penalty unit is currently \$110.

surveyor-in-charge, in relation to a port, means:

- in the case of a port where an AMSA marine survey office is located—the surveyor-in-charge of that office; and
- in the case of any other port—the surveyor-in-charge of the AMSA marine survey office nearest that port.

3 Interpretation

In this Part:

- headings and sub-headings are part of the Part;
- a footnote is not part of the Part, but may provide additional information or guidance in applying the Part.

4 Application

This Part applies to and in relation to a ship:

- to which MARPOL is expressed to apply; or
- that is government owned or operated and used, for the time being, on government non-commercial service.

5 Review of decisions

5.1 Internal review

5.1.1 If a surveyor makes a decision under this Part, a person affected by the decision may apply to the General Manager for review of that decision.

5.1.2 An application for internal review under 5.1.1 must be made in writing to the General Manager and must be accompanied by such information as the General Manager requires to enable that officer to make a proper decision.

5.1.3 The General Manager may:

- affirm the original decision by a surveyor; or
- make any decision that could be made by a surveyor in accordance with this Part.

5.2 Review by the AAT

5.2.1 Application may be made to the Administrative Appeals Tribunal for review of a decision by the General Manager under 5.1.3.

5.2.2 The General Manager must give his or her decision in writing within 28 days of receiving the application for internal review. The notice must include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Administrative Appeals Tribunal for review of the decision. The notice must also include a statement to the effect that the person may request a statement under section 28 of that Act.

5.2.3 Failure to comply with 5.2.2 in relation to a decision does not affect the validity of that decision.

6 Prescribed matters

6.1 For the purposes of section 26FE of the Pollution Prevention Act, the Chief Marine Surveyor is a prescribed officer.

6.2 For the purposes of subsection 26FA(3) of the Pollution Prevention Act, the form of garbage record book set out in the Appendix to Annex V of MARPOL is the prescribed garbage record book.

6.3 For the purposes of subsection 26FA(6) of the Pollution Prevention Act, the prescribed operations or prescribed occurrences are those set out in section 4 of the Appendix to Annex V of MARPOL.

6.4 For the purposes of subsections 26FB(5) and 26FB(7) of the Pollution Prevention Act, a surveyor-in-charge is the prescribed person.

6.5 For the purposes of subsection 26FC(3) of the Pollution Prevention Act, the form of Shipboard Waste Management Plan set out in IMO Resolution MEPC.71(38) is the prescribed form.³

7 Port state control of operational requirements

7.1 Inspection of ships

If a surveyor has clear grounds for believing that the master or crew of a ship in a port in Australia are not familiar with essential shipboard procedures relating to the prevention of pollution by garbage, the surveyor may inspect the ship.

7.2 Detention of ships

7.2.1 A surveyor intending to inspect a ship under 7.1 may, by order in writing addressed to the master, detain it.

³ Copies of IMO Resolution MEPC.71(38) are obtainable from AMSA.

7.2.2 When the surveyor is satisfied that the ship is able to proceed to sea without presenting an unreasonable threat of harm to the marine environment, he or she is to revoke the detention order.

7.2.3 The master of a ship must comply with an order under 7.2.1

This is a penal provision.

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