

## *Transport Operations (Marine Pollution) Regulation 2018*

Maritime Safety Queensland (MSQ) administers the *Transport Operations (Marine Pollution) Act 1995* (TOMPA 1995) and *Transport Operations (Marine Pollution) Regulation 2018* (TOMPR 2018).

This legislation gives effect to relevant provisions of the *International Convention for the Prevention of Pollution from Ships, 1973* (MARPOL) to which Australia is a signatory. MARPOL is the main international convention for preventing ship-sourced pollution.

Part 7 of the *Statutory Instruments Act 1992* provides that all subordinate legislation expires 10 years after its making unless otherwise exempted. As such the *Transport Operations (Marine Pollution) Regulation 2008* (TOMPR 2008) automatically expired and TOMPR 2018 is now in force.

The majority of provisions from TOMPR 2008 remain in TOMPR 2018. The amendments include:

- updates to align with MARPOL
- amendments seeking consistency with international instruments and national legislation
- amendments seeking to clarify existing regulatory requirements, and
- amendments to streamline requirements and reduce the regulatory burden.

The amendments to the provisions are summarised below.

### **Oil**

- Oil Record Book
  - All trading ships proceeding en route on a voyage other than an overseas voyage (for example, an intrastate or interstate voyage) must carry an oil record book.
    - Previously only trading ships on an intrastate voyage were required to carry an oil record book.
  - Note that the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cwlth) applies to trading ships proceeding en route on an overseas voyage.
- Shipboard Oil Pollution Emergency Plan (SOPEP)
  - The form of the SOPEP must now be in the form prescribed under section 12(3) of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cwlth).

## Noxious Liquid Substances in Bulk

- Prewash exemptions for categories X, Y, and Z noxious liquid substances
  - The prewash exemptions for categories X, Y, and Z noxious liquid substances have been removed as the Australian Maritime Safety Authority (AMSA), as the Government of the Receiving Party, provides for this exemption through the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* and *Marine Order 93*.
- Discharge exemption for category Z noxious liquid substances
  - The provision that gave the General Manager (Maritime Safety Queensland) the power to exempt a ship's master from having to be at least 12 nautical miles from nearest land to discharge a category Z substance, if all other requirements are complied with, has been removed as AMSA provides for this exemption through the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*.
- Chapter 17 and 18 of the International Bulk Chemical (IBC) Code
  - The IBC Code is updated regularly by the International Maritime Organisation as new chemicals are developed or the hazard profiles of existing chemicals are reassessed and altered. This means that any extract reproduced in legislation will rapidly be out of date. The extract of Chapters 17 and 18 of the IBC Code, which included a long list of chemicals, has been removed and a call-up provision now refers directly to the Code.
  - Links to the current version of the IBC Code including amendments can be on the AMSA web site at: <https://www.amsa.gov.au/vessels-operators/regulations-and-standards-vessels/marine-order-17-chemical-tankers-and-gas>.

## Sewage

- Macerators
  - If the fixed toilet on a ship, is a composting toilet, the requirement for a ship to be fitted with a macerator does not apply.
- Sewage disposal record book
  - The requirement to make an entry in a ship's sewage disposal record book where sewage is discharged has been extended to record all sewage discharges, not just those discharges made into a reception facility. The provision also requires the latitude and longitude to be recorded if the discharge is made at sea.
- Sewage treatment system sampling
  - The provision has been clarified to make it clear that samples of effluent from the sewage treatment system, taken for the purposes of assessment, must not be diluted.
- Nil discharge waters
  - The definitions of nil discharge waters for untreated sewage and nil discharge waters for treated and untreated sewage from a declared ship have been amended to ensure the prohibition of discharging untreated sewage within 1 nautical mile of a person in the water.

- This change is consistent with the definition of nil discharge waters for treated sewage, whereby it is prohibited to discharge treated sewage within 1 nautical mile of a person in the water.
- The definition of 'nil discharge waters for untreated sewage' has been amended to ensure that discharging untreated sewage within 1 nautical mile of the mean low watermark of an island or the mainland, whether the discharge occurs in open waters or Hervey Bay waters, is prohibited.

## Garbage

- The following definitions and terms have been updated to align with MARPOL in reference to garbage as follows (differences are underlined, where applicable):
  - “Food wastes means any spoiled or unspoiled food substances and includes fruits, vegetables, dairy products, poultry, meat products and food scraps generated aboard ship”;
  - "Relevant platform means a fixed or floating structure located at sea that is engaged in the exploration, exploitation or associated offshore processing of seabed mineral resources", and
  - The term "vegetable oils" has changed to include "vegetable oils, animal fats, and fish oils".
- The Regulation now limits exemptions for the disposal of food wastes, cargo residues, animal carcasses, and cleaning agents or additives that are not harmful to the marine environment to reflect tighter MARPOL and Commonwealth disposal requirements related to garbage discharges.
  - When garbage is mixed with or contaminated by other harmful substances prohibited from discharge or having different discharge requirements, the more stringent requirements applies.
- Shipboard waste management plan
  - A new provision has been included to prescribe the minimum requirements for a shipboard waste management plan. A shipboard waste management plan must be kept on board, be in English, and comply with the requirements for a garbage management plan under the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cwlth), section 26FC(3).
- Fish feeding
  - The garbage discharge exemption provision for food wastes for fish feeding has been amended to ensure that the discharge is not prohibited under another law. For example, the Great Barrier Reef Marine Park Authority requires a permit for fish feeding for tourist operators or commercial fishers.

## Insurance

- For vessels over 15m, vessel owners are now required to have the mandated monetary limit, for both pollution clean-up and salvage, specified on their certificate of insurance or another document and it is to be retained on-board the ship.