



**Australian Government**  
**Australian Maritime Safety Authority**

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AMSA MO 2018/1

**Marine Order 95 (Marine pollution prevention — garbage) 2018**

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I, Michael Kinley, Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 34(1) of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*.

23 February 2018

**Michael Kinley**  
Chief Executive Officer

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## Division 1 Preliminary

### 1 Name of Order

This Order is *Marine Order 95 (Marine pollution prevention — garbage) 2018*.

### 1A Commencement

This Order commences on 1 March 2018.

### 1B Repeal of *Marine Order 95 (Marine pollution prevention — garbage) 2013*

*Marine Order 95 (Marine pollution prevention — garbage) 2013* is repealed.

### 2 Purpose

This Order:

- (a) gives effect to Annex V of MARPOL (which deals with the prevention of pollution by garbage from ships); and
- (b) prescribes matters for Part IIIC of the Pollution Prevention Act (which deals with the prevention of pollution by garbage);
- (c) provides for some provisions of the Pollution Prevention Act that apply to Australian ships to also apply to foreign ships.

### 3 Power

The following provisions of the Pollution Prevention Act provide for this Order to be made:

- (a) subsection 32(1) which provides that the regulations may apply to foreign ships provisions of the Act about the record books that are required to be carried by Australian ships;
- (b) subsection 32(1B) which provides that the regulations may apply to foreign ships provisions of the Act about the garbage management plans that are required to be kept on board Australian ships;
- (c) paragraphs 33(1)(a) and (b) which provide for regulations to be made prescribing matters required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act;
- (d) paragraph 33(1)(c) which provides for regulations under paragraphs 33(1)(a) and (b) to be made to give effect to MARPOL;
- (e) subsection 34(1) which provides that the Authority may make orders for any matter (other than the imposition of penalties) for which provision may be made by regulation.

### 4 Definitions

In this Order:

*animal carcass* has the meaning given by Annex V.

*Annex III* means Annex III of MARPOL

*Annex V* means Annex V of MARPOL.

*cargo residue* has the meaning given by Annex V.

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*Note 1* Some terms used in this Order are defined in *Marine Order 1 (Administration) 2013*, including:

- IMO
- national law
- Navigation Act
- MARPOL
- Pollution Prevention Act.

*Note 2* Other terms used in this Order are defined in the Pollution Prevention Act, including:

- Authority
- Polar Code.

*Note 3* For delegation of the Authority's powers under this Order — see the Australian Maritime Safety Authority (AMSA) website at <http://www.amsa.gov.au>.

*Note 4* Information on obtaining copies of any IMO Resolution, IMO document or other document that is mentioned in this Order is available from the AMSA website Marine Orders link at <http://www.amsa.gov.au>.

## 5 Application

This Order applies to an Australian ship and a foreign ship.

*Note* Subsection 33(2) of the Pollution Prevention Act has the effect that this Order does not apply to certain ships covered by Annex V, in a particular area, if a law of a State or the Northern Territory, or the national law, applies Annex V to those ships in that area.

## Division 2 Discharge of garbage — prescribed matters

### 6 Cargo residue substances

For paragraph 26F(7)(d) and subparagraph 26F(8C)(c)(i) of the Pollution Prevention Act, each substance that is considered harmful to the marine environment in accordance with Appendix I of Annex V is prescribed.

### 7 Discharge of animal carcasses

For paragraph 26F(8)(d) of the Pollution Prevention Act:

- (a) the animal carcass must have been:
  - (i) manually slit or cut so that its thoracic and abdominal cavities are opened; or
  - (ii) passed through a comminuter, grinder, hogger, mincer or similar equipment; and
- (b) the discharge must comply with section 2.12 of the *2017 Guidelines for the implementation of MARPOL Annex V* adopted by IMO Resolution MEPC.295(71) and as amended from time to time.

### 8 Cleaning agents or additives

For paragraphs 26F(8A)(c) and 26F(8D)(d) and subparagraph 26F(8C)(c)(ii) of the Pollution Prevention Act, a cleaning agent or additive is prescribed if it:

- (a) was in the cargo hold, deck or external surfaces wash water of the ship; and
- (b) either:
  - (i) is identified as a harmful substance according to the criteria in the Appendix to Annex III; or
  - (ii) contains a component that is carcinogenic, mutagenic or reprotoxic.

## Division 3 Garbage record books and management plans

### 9 Garbage records — foreign ships

For subsection 32(1) of the Pollution Prevention Act, sections 26FA and 26FB of the Act apply to a foreign ship, as if it were an Australian ship, when it is in:

- (a) a port in Australia; or
- (b) the territorial sea of Australia; or
- (c) the sea on the landward side of the territorial sea of Australia on its way to or from a port in Australia.

*Note 1* Section 26FA deals with maintaining a garbage record book. Section 26FB deals with the retention of a garbage record book.

*Note 2* Some provisions of the Pollution Prevention Act apply only to Australian ships. Subsection 32(1) of the Act provides that the regulations may provide for these provisions to apply also to foreign ships, if the subject matter is about record books. Most other provisions of the Pollution Prevention Act apply to Australian and foreign ships, including those mentioned in sections 6, 7 and 8 of this Order.

### 10 Garbage record book — prescribed matters

- (1) For subsection 26FA(3) of the Pollution Prevention Act, the form set out in Appendix II to Annex V is prescribed.
- (2) For subsection 26FA(6) of the Pollution Prevention Act, each of the following operations or occurrences is prescribed:
  - (a) discharge of garbage to a reception facility ashore or to another ship;
  - (b) incineration of garbage;
  - (c) discharge of garbage into the sea in accordance with:
    - (i) regulation 4, 5 or 6 of Annex V; or
    - (ii) Chapter 5 of Part II-A of the Polar Code;
  - (d) accidental or other exceptional discharge or loss of garbage into the sea, including the matters mentioned in regulation 7 of Annex V.

### 11 Garbage management plans — foreign ships

For subsection 32(1B) of the Pollution Prevention Act, section 26FC of the Act applies to a foreign ship, as if it were an Australian ship, when it is in:

- (a) a port in Australia; or
- (b) the territorial sea of Australia; or
- (c) the sea on the landward side of the territorial sea of Australia.

*Note 1* Section 26FC relates to the keeping of a garbage management plan on board ship.

*Note 2* Some provisions of the Pollution Prevention Act apply only to Australian ships. Subsection 32(1B) of the Act provides that the regulations may provide for these provisions to apply also to foreign ships, if the subject matter is about garbage management plans. Most other provisions of the Pollution Prevention Act apply to Australian and foreign ships, including those mentioned in sections 6, 7 and 8 of this Order.

### 12 Garbage management plan — prescribed matter

For subsection 26FC(3) of the Pollution Prevention Act, the garbage management plan must be in a form that includes the matters mentioned in section 4 of the *2012 Guidelines for the Development of Garbage Management*

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*Plans* set out in the Annex to IMO Resolution MEPC.220(63) and as amended from time to time.

*Note* The matters mentioned in the Guidelines are about designating a person in charge of carrying out the plan, and procedures for collecting, processing, storing and discharging garbage.

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**Note**

1. All legislative instruments and compilations of legislative instruments are registered on the Federal Register of Legislation under the *Legislation Act 2003*. See <https://www.legislation.gov.au>.