

TASMANIA

MARINE-RELATED INCIDENTS (MARPOL IMPLEMENTATION) REGULATIONS 2020

STATUTORY RULES 2020, No. 91

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MARINE-RELATED INCIDENTS (MARPOL IMPLEMENTATION) REGULATIONS 2020

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Marine-related Incidents (MARPOL Implementation) Act 2020*.

Dated 22 December 2020.

C. WARNER
Governor

By Her Excellency's Command,

R. C. JAENSCH
Minister for Environment and Parks

1. Short title

These regulations may be cited as the *Marine-related Incidents (MARPOL Implementation) Regulations 2020*.

2. Commencement

These regulations take effect on the day on which the last of the uncommenced provisions of

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the *Marine-related Incidents (MARPOL Implementation) Act 2020* commences.

3. Interpretation

In these regulations –

Act means the *Marine-related Incidents (MARPOL Implementation) Act 2020*;

Marine Order 91 means *Marine Order 91 (Marine pollution prevention — oil) 2014* of the Commonwealth;

Marine Order 94 means *Marine Order 94 (Marine pollution prevention — packaged harmful substances) 2014* of the Commonwealth;

Marine Order 95 means *Marine Order 95 (Marine pollution prevention — garbage) 2018* of the Commonwealth;

Marine Order 96 means *Marine Order 96 (Marine pollution prevention — sewage) 2018* of the Commonwealth.

4. Prescribed officer

For the purposes of paragraph (b) of the definition of *prescribed officer* in section 3(1) of the Act, the following officers are prescribed:

- (a) for the purposes of sections 13(3), 13(9), 23(3), 23(9), 27(3) and 27(9) of the Act –

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- (i) the person referred to in section 43(2)(b) of the Act who is a member of the State Marine Pollution Committee; and
 - (ii) a harbour master;
- (b) for the purposes of section 29(5)(a) of the Act –
 - (i) an inspector appointed under section 7(e) of the Act; and
 - (ii) an inspector within the meaning of section 3(1) of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth.

5. Prescribed manner of notification

For the purposes of sections 13(2), 13(5), 23(2), 23(5), 27(2), 27(5), 41(2), (3), (4) and (7) of the Act, a prescribed officer is notified of an incident in the prescribed manner if –

- (a) he or she is notified, using the contact information for the prescribed officer published by the Department, by –
 - (i) telephone; or
 - (ii) radio; and

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- (b) the notification commences with the code letters “POLREP” and the name, IMO number and radio call-sign of the ship.

6. Prescribed time to give requested report

For the purposes of sections 13(3), 13(9), 23(3), 23(9), 27(3) and 27(9) of the Act, the prescribed time within which a report required under the relevant section must be given is 24 hours after the request for the report is made.

7. Prescribed form of ship-to-ship operations plan

For the purposes of section 16(2)(a)(i) of the Act, a ship-to-ship operations plan for an oil tanker is to be in the form specified in section 24 of Marine Order 91.

8. Prescribed qualification requirements for oil cargo transfer

For the purposes of section 17(1)(b) of the Act, the prescribed qualification requirements are those specified in section 25 of Marine Order 91.

9. Prescribed ship-to-ship transfer information

For the purposes of section 18(1) of the Act, the prescribed information is the information specified in section 27 of Marine Order 91.

10. Prescribed manner of notifying prescribed officer of ship-to-ship transfer

(1) For the purposes of section 18(2) and (3) of the Act, a prescribed officer is notified of a transfer, and ship-to-ship transfer information, in the prescribed manner if he or she is notified of these matters, using the contact information for the prescribed officer published by the Department, by –

(a) email; or

(b) facsimile.

(2) For the purposes of section 18(4)(c) of the Act, a prescribed officer is notified of the new estimated time of arrival in the prescribed manner if he or she is notified of that time, using the contact information for the prescribed officer published by the Department, by –

(a) telephone; or

(b) radio; or

(c) email.

11. Prescribed requirements for washing harmful substance overboard

For the purposes of section 26(5)(a) of the Act, the prescribed requirements for washing a substance overboard are the requirements specified in section 9 of Marine Order 94.

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12. Requirements for sewage treatment plant

For the purposes of section 29(5)(a) of the Act, the requirements for a sewage treatment plant on a ship are the requirements specified in section 7 of Marine Order 96.

13. Prescribed passenger ships

For the purposes of section 29(5)(c) of the Act –

- (a) a prescribed passenger ship is a ship that conforms with the provisions of section 22(a) of Marine Order 96; and
- (b) the prescribed day is the day specified in section 22(b) of Marine Order 96.

14. Requirements for discharge of animal carcasses

For the purposes of section 33(5)(c) of the Act, the prescribed requirements for the discharge of animal carcasses are the requirements specified in section 7 of Marine Order 95.

15. Prescribed cleaning agent or additive

For the purposes of section 33(6)(b) of the Act, a prescribed cleaning agent or additive is a cleaning agent or additive specified in section 8 of Marine Order 95.

16. Interest payable on recovery of costs of incidents

- (1) For the purposes of this regulation –

quarter means a period of 3 months commencing on 1 July, 1 October, 1 January or 1 April in any year;

reference rate, in relation to a relevant month, means the monthly average of the Bank Accepted Bill rate: 90 days, as published by the Reserve Bank of Australia, in respect of the second month of the quarter immediately before the relevant month;

relevant month means the month in which the day or days on which the interest is to be calculated falls.

- (2) For the purposes of section 55(4) of the Act, the prescribed rate of interest for each day on which the unpaid amount is due and owing is the daily rate payable for that day.
- (3) For the purposes of subregulation (2), the daily rate is to be calculated in accordance with the following formula:

$$\text{daily rate} = \frac{\text{reference rate} + 6\%}{365}$$

- (4) If costs are recoverable from a person under section 55(2) of the Act and the costs are not paid in full by the person within the period fixed

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by a notice under section 55(3) of the Act, interest accrues, on the amount unpaid, from the day after that period until the day on which the debt is paid in full, with both days inclusive.

17. Infringement notices

For the purposes of section 67 of the Act –

- (a) an offence specified in column 1 of Schedule 1 is prescribed to be an infringement offence; and
- (b) the penalty for an infringement offence is the amount specified in column 2 of Schedule 1 opposite the infringement offence.

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**SCHEDULE 1 – INFRINGEMENT NOTICE OFFENCES
AND PENALTIES**

Item	Column 1	Column 2
	Section of Act	Penalty (penalty units)
1.	Section 12(1) – (a) if the discharge is of a volume of less than 100 litres; (b) if the discharge is of a volume of 100 or more litres but less than 1 000 litres; (c) if the discharge is of a volume of 1 000 or more litres;	Regulation 17 10 30 60
2.	Section 13(2)	30
3.	Section 13(3)	10
4.	Section 13(5)	30
5.	Section 13(9)	10
6.	Section 14(3)	25
7.	Section 16(1)	20

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Item	Column 1 Section of Act	Column 2 Penalty (penalty units)
8.	Section 17(1)	6
9.	Section 18(2)	20
10.	Section 18(3)	20
11.	Section 18(4)	6
12.	Section 20(1) –	
	(a) if the discharge is of a volume of less than 100 litres;	10
	(b) if the discharge is of a volume of 100 or more litres but less than 1 000 litres;	30
	(c) if the discharge is of a volume of 1 000 or more litres;	60
13.	Section 20(2) –	
	(a) if the discharge is of a volume of less than 100 litres;	10

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Item	Column 1 Section of Act	Column 2 Penalty (penalty units)
	(b) if the discharge is of a volume of 100 or more litres but less than 1 000 litres;	30
	(c) if the discharge is of a volume of 1 000 or more litres;	60
14.	Section 22(2)	20
15.	Section 22(4)	6
16.	Section 23(2)	30
17.	Section 23(3)	10
18.	Section 23(5)	30
19.	Section 23(9)	10
20.	Section 24(3)	25
21.	Section 26(1)	250
22.	Section 26(2)	50
23.	Section 27(2)	50
24.	Section 27(3)	20

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Item	Column 1 Section of Act	Column 2 Penalty (penalty units)
25.	Section 27(5)	50
26.	Section 27(9)	20
27.	Section 29(1)	30
28.	Section 29(2)	30
29.	Section 31(3)	30
30.	Section 33(1)	
	(a) if the garbage consists only of a single item of personal garbage;	2
	(b) if paragraph (a) of this penalty does not apply but the discharge is of a volume of less than 55 litres;	20
	(c) if the discharge is of a volume of 55 litres or more but less than 2 cubic metres;	50

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Item	Column 1 Section of Act	Column 2 Penalty (penalty units)
	(d) if the discharge is of a volume of 2 cubic metres or more but less than 10 cubic metres –	
	(i) in the case of a body corporate;	200
	(ii) in the case of an individual;	100
	(e) if the discharge is of a volume of 10 cubic metres or more –	
	(i) in the case of a body corporate;	500
	(ii) in the case of an individual;	200
31.	Section 33(2)	
	(a) if the garbage consists only of a single item of personal garbage;	2

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Item	Column 1 Section of Act	Column 2 Penalty (penalty units)
	(b) if paragraph (a) of this penalty does not apply but the discharge is of a volume of less than 55 litres;	20
	(c) if the discharge is of a volume of 55 litres or more but less than 2 cubic metres;	50
	(d) if the discharge is of a volume of 2 cubic metres or more but less than 10 cubic metres –	
	(i) in the case of a body corporate;	200
	(ii) in the case of an individual;	100
	(e) if the discharge is of a volume of 10 cubic metres or more –	
	(i) in the case of a body corporate;	500

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Item	Column 1 Section of Act	Column 2 Penalty (penalty units)
	(ii) in the case of an individual;	200
32.	Section 34(3)	30
33.	Section 36(1) –	
	(a) if the discharge is of a volume of less than 100 litres;	10
	(b) if the discharge is of a volume of 100 or more litres but less than 1 000 litres;	30
	(c) if the discharge is of a volume of 1 000 or more litres;	60
34.	Section 36(2) –	
	(a) if the discharge is of a volume of less than 100 litres;	10
	(b) if the discharge is of a volume of 100 or more litres but less than 1 000 litres;	30

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Item	Column 1 Section of Act	Column 2 Penalty (penalty units)
	(c) if the discharge is of a volume of 1 000 or more litres;	60
37.	Section 37(2) –	
	(a) if the discharge is of a volume of less than 100 litres;	10
	(b) if the discharge is of a volume of 100 or more litres but less than 1 000 litres;	30
	(c) if the discharge is of a volume of 1 000 or more litres;	60
38.	Section 38(2)	50
39.	Section 39(3)	100
40.	Section 39(4)	100
41.	Section 41(2)	50
42.	Section 41(3)	50
43.	Section 41(4)	50

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	Column 1	Column 2
Item	Section of Act	Penalty (penalty units)
44.	Section 41(7)	50
45.	Section 47(4)	50
46.	Section 50(7)	20
47.	Section 51(6)	100
48.	Section 53(3)	100
49.	Section 53(10)	50
50.	Section 54	50
51.	Section 73(6)	10

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 30 December 2020.

These regulations are administered in the Department of Primary Industries, Parks, Water and Environment.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations, for the purposes of the *Marine-related Incidents (MARPOL Implementation) Act 2020* prescribe –

- (a) the manner, form and time of certain matters under that Act; and
- (b) the adoption of certain provisions of the Marine Orders of the Commonwealth; and
- (c) the means of calculating the rate of interest on certain costs incurred under that Act; and
- (d) infringement notice offences and the penalties for those offences.