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Marine Circular No. 08/2025

To: Shipowners, Operators, Agents, Masters and Officers of Merchant Ships, Authorized Classification Societies and Surveyors and Interested Parties.

ADOPTION OF THE MERCHANT SHIPPING AND FISHING VESSELS (PORT WASTE RECEPTION FACILITIES) REGULATIONS 2003

INTERNATIONAL CONVENTION ON PREVENTION OF POLLUTION FROM SHIPS

SUMMARY

1. This Notice sets out the text of the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (UKSI 2003/1809 as amended) ("2003 Regulations") as adopted into the law of the Virgin Islands.
2. The Port Waste Reception Facilities Regulations give effect in the Virgin Islands to the reception facilities provisions of MARPOL Annexes I, II, IV, V and VI. They generally makes provision for (i) the ports in the Virgin Islands to provide waste reception facilities adequate to meet the needs of ships normally using the harbours and (ii) procedures for Virgin Island registered ships and non-Virgin Islands registered ships while they are in Virgin Island waters to access port reception facilities and report inadequate facilities to the IMO.

MARPOL CONVENTION

1. MARPOL is designed to minimise pollution of the oceans and seas, including dumping, oil, and exhaust pollution. MARPOL was adopted by the International Maritime Organization in 1973 and has been updated through subsequent amendments and protocols, most notably the 1978 Protocol. The convention consists of six annexes, each addressing different sources of marine pollution.
2. MARPOL Annexes I, II, IV, V and VI require parties to provide waste reception facilities adequate to meet the needs of ships using the ports.
3. Annex I, II, IV and V were extended to the Virgin Islands on 19 June 2006. Annex VI of MARPOL was extended to the Virgin Islands on 9 September 2013.
4. This Notice explains how MARPOL reception facilities requirements are given effect in the Virgin Islands through the adoption of United Kingdom merchant shipping regulations and contains the text of those regulations as adopted in the Virgin Islands.

ADOPTION OF THE MERCHANT SHIPPING AND FISHING VESSELS (PORT WASTE RECEPTION FACILITIES) REGULATIONS 2003

5. Section 464 (1) of the Merchant Shipping Act, 2001 enables the Governor by Order to apply to the Virgin Islands as part of the law of the Virgin Islands any enactment of the United Kingdom, subject to such exceptions, adaptations and modifications as may be specified in the Order.
6. By virtue of the Merchant Shipping (Adoption of United Kingdom Enactments) Order, 2005¹ as amended (“the Adoption Order”) the Virgin Islands adopted Merchant Shipping (Port Waste Reception Facilities) Regulations 1997 (“1997

¹ S.I. 2005 No. 30; The Adoption Order has been amended by the Merchant Shipping (Adoption of United Kingdom Enactments) (Amendment) Order 2010 and the Merchant Shipping (Adoption of United Kingdom Enactments) (Amendment) Order 2025 S.I. 2025 No. 69 and validated by the Validation (Merchant Shipping (Adoption of United Kingdom Enactments) Act 2017.

Regulations), which previously gave effect to MARPOL reception facilities requirements in the United Kingdom.

7. Sections 3 and 4 of the Adoption Order provide that if an adopted UK enactment is amended or revoked and replaced, the amendments or replacement enactments take effect in the Virgin Islands automatically.
8. The 1997 Regulations were revoked and replaced in the United Kingdom by the 2003 Regulations.
9. Consequently, in accordance with sections 3 and 4 of the Adoption Order, the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (as amended by UKSIs 2009/1176, 2016/1211 updating 'ship-generated waste' to include sewage, amending the notification form and updating the advance notification form and requiring periodic review of operation and effect) now have the force of law in the Virgin Islands.
10. Section 464(3) of the Merchant Shipping Act 2001 provides that the Minister must cause a text of an adopted UK enactment to be prepared incorporating the exceptions, adaptations, and modifications specified in the Order.
11. This Notice sets out in **Annex-1** the text of the United Kingdom's Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 as adopted, incorporating the relevant exceptions, adaptations, and modifications.

M Notices

12. To accompany many UK Regulations, the Maritime and Coastguard Agency publishes M-Notices, comprising Merchant Shipping Notices ('MSNs'), Marine Guidance Notes ('MGNs') and Marine Information Notices ('MINs').
13. In some cases, the M-Notices are referenced in the Regulations and, where they are incorporated as part of the Regulations, their provisions are as mandatory as those contained in the Regulations. Consequently, where the Virgin Islands has adopted UK Regulations which incorporate M-Notices, the M-Notices also have the force of law.

14. In other cases, M-Notices are issued which provide guidance on the regulations without being incorporated in the Regulations. Although not having the force of law in the same way as incorporated M-Notices, they may nonetheless be relevant to the interpretation of the UK Regulations, as adopted in the Virgin Islands.
15. **Annex-2** contains tables listing the M-Notices that are related to the adopted Regulations.

Contact Details

16. Any question concerning the application of this Notice or an adopted MSN or MGN in respect of a Virgin Islands ship may be referred to VISMA.

Virgin Islands Shipping and Maritime Authority

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Issued by the Virgin Islands Shipping and Maritime Authority with approval of the Minister.

**Mr. John Samuel
Managing Director
Virgin Islands Shipping and Maritime Authority**

Issue Date: 2025-10-17

ANNEX-1

THE MINISTER PURSUANT TO S. 464(3) OF THE MERCHANT SHIPPING ACT, 2001 (ACT NO. 13 OF 2001) AS AMENDED, PUBLISHES THE FOLLOWING TEXT OF THE ENACTMENT OF THE UNITED KINGDOM AS ADOPTED IN THE VIRGIN ISLANDS IN ACCORDANCE WITH THE MERCHANT SHIPPING (ADOPTION OF UNITED KINGDOM ENACTMENTS) ORDER 2005 (S.I. 2005 NO. 30) AS AMENDED

TEXT OF THE MERCHANT SHIPPING AND FISHING VESSELS (PORT WASTE RECEPTION FACILITIES) REGULATIONS 2003 (U.K.S.I. 2003/1809)

Instruments and documents which are mentioned in the adopted UK Regulations are available in the Virgin Islands from the Virgin Islands Shipping and Maritime Authority, 1st Floor, Wickham's Cay II, Road Town, Tortola, Virgin Islands VG1110; vishipping@bvimaritime.vg; www.bvimaritime.vg

Footnotes are those which appear in the original text of the UK Regulations and are for information only.

STATUTORY INSTRUMENTS

2003 No. 1809

MERCHANT SHIPPING

The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities)
Regulations 2003

Made

14th July 2003

Coming into force

15th July 2003

1. Citation, commencement and revocation
2. Interpretation, etc.
3. Application
4. Requirement to provide adequate waste reception facilities
5. Direction to provide adequate waste reception facilities

6. Requirements regarding waste management plans
7. Requirements regarding waste management plans: time for submission of first and subsequent plans
8. Approval and implementation of waste management plans
9. Power of the Minister to prepare a waste management plan
10. Direction to implement a waste management plan
11. Notification
12. Delivery of ship-generated waste
13. Charges for ship-generated waste
14. Charges for ship-generated waste: further provisions
15. Exemptions
16. Delivery of cargo residues
17. Non-compliance or suspected non-compliance
18. Offences and penalties
19. Offences by body corporate
20. Inspection and detention of a Virgin Islands ship
21. Inspection and detention of ships other than Virgin Islands ships
22. Enforcement of detention
23. Arbitration and compensation
24. Review

Signature

SCHEDULE 1 — REQUIREMENTS FOR WASTE MANAGEMENT PLANS

SCHEDULE 2 — INFORMATION TO BE NOTIFIED

2003 No. 1809

MERCHANT SHIPPING

The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003

Made

14th July 2003

Coming into force

15th July 2003

Citation, commencement and revocation

1.(1) These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 and shall come into force on the day after the day on which they are made.

(2) The Merchant Shipping (Port Waste Reception Facilities) Regulations 1997 are revoked.

Interpretation, etc.

2.(1) In these Regulations

“the Act” means the Merchant Shipping Act 2001;

“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 includes excesses and spillage from loading or unloading;

“BVIPA” means the British Virgin Islands Ports Authority established by section 3 of the British Virgin Islands Ports Authority Act, 1990;

“Category A, B, C or D substance” means any substance listed and identified as falling into Category A, B, C or D in column “c” in Chapter 17 and Chapter 18 of the IBC Code; and any substance which is provisionally assessed as a Category A, B, C or D substance; and a reference to any such substance shall include a reference to any mixture containing such substance;

“the Convention” means the International Convention for the Prevention of Pollution from Ships 1973 as revised from time to time;

“crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes

(a) crude oil from which certain distillate fractions may have been removed; and

(b) crude oil to which certain distillate fractions may have been added;

“fishing vessel” means any ship equipped or used commercially for catching fish or other living resources of the sea;

“fuel oil” means any oil used as fuel in connection with the propulsion and auxiliary machinery of the ship in which such oil is carried;

“harbour authority” means the British Virgin Islands Ports Authority established by section 3 of

the British Virgin Islands Ports Authority Act, 1990.

“IBC Code” means the 1998 Edition of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk published by the International Maritime Organization;

“master”, in the application of these Regulations to hovercraft, includes the captain of a hovercraft;

“Merchant Shipping Notice” means a Notice described as such and issued by the Maritime and Coastguard Agency and adopted by VISMA; and any reference to a particular Merchant Shipping Notice includes a reference to any document amending or replacing that Notice which is considered by the Minister to be relevant from time to time;

“Minister” means Minister responsible for the British Virgin Islands Ports Authority;

“noxious liquid substance” means either a substance listed as such in MEPC Circular 2/CIRC.1 or a Category A, B, C or D substance, but does not include cargo residues; and for this purpose “MEPC Circular” means a circular of that description issued by the Marine Environment Protection Committee of the International Maritime Organization;

“oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products, other than oil-like substances which are subject to the Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018;

“oily mixture” means a mixture with any oil content;

“operational waste” means all cargo-associated waste and maintenance waste; and for this purpose “cargo-associated waste” means all materials which have become wastes as a result of use on board a ship for cargo stowage and handling and includes dunnage, shoring, pallets, lining and packing materials, plywood, paper, cardboard, wire and steel strapping;

“owner” means the owner, charterer, manager or operator of a ship;

“passenger” means any person carried in a ship except

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship;
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master nor the company could have prevented, and
- (c) a child under one year of age;

“prescribed wastes” means any waste of the following descriptions

- (a) cargo residues;
- (b) noxious liquid substances; and
- (c) ship-generated waste;

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

“relevant inspector” means a person mentioned in paragraphs (a) to (g) of section 415(1) of the Act;

“sewage” means

- (a) drainage and other wastes from any form of toilets and urinals,
- (b) drainage from medical premises (including, for example, a dispensary or sick bay) via wash basins, wash tubs and scuppers located in such premises,
- (c) drainage from spaces containing living animals, or
- (d) other waste waters when mixed with any drainage referred to in paragraph (a), (b) or (c);

“ship” means a sea-going vessel of any type whatsoever (including hydrofoils, hovercraft, submersibles and floating craft) operating in the marine environment beyond the limits of waters of categories A and B as categorised in Merchant Shipping Notice No. MSN 1776(M); and

“ship-generated waste” means all waste and residues which are generated during the service of a ship and which fall within the definitions of garbage, sewage, oil and oily mixtures, but does not include cargo residues; and for this purpose “garbage” means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically, except sewage.;

“terminal operator” means any person authorized by the BVIPA to operate a port facility within a designated harbour.

“VISMA” means the Virgin Islands Shipping and Maritime Authority established by section 3 of the Virgin Islands Shipping and Maritime Authority Act, 2023 (Act No. 23 of 2023).

- (2) For the purposes of these Regulations the “competent authority” shall be
 - (a) in relation to the Virgin Islands, VISMA;
 - (b) in relation to an EEA State, the national maritime administration maintained by that State for the inspection of ships; and
 - (c) in relation to a state other than an EEA State, any authority designated as such by that State.
- (3) Words and expressions used in these Regulations which are defined in the Act shall bear those meanings throughout these Regulations.
- (4) Any direction given under these Regulations shall be in writing.
- (5) Any power under these Regulations to give a direction includes power to vary or revoke the direction by a subsequent direction.

Application

- 3.(1) These Regulations apply to any harbour or terminal within a harbour in the Virgin Islands.
- (2) Subject to paragraphs (3) and (4) these Regulations apply to all ships calling at or operating within a harbour or terminal to which these Regulations apply.
- (3) These Regulations do not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.
- (4) Regulations 11 and 13 do not apply to a ship which is
 - (a) a fishing vessel; or
 - (b) a recreational craft authorised to carry, or designed to carry, no more than 12 passengers.

Requirement to provide adequate waste reception facilities

4. (1) Every harbour authority and terminal operator shall provide waste reception facilities adequate to meet the needs of ships normally using the harbour or terminal in question without causing undue delay to ships.
- (2) In paragraph (1) “adequate” means capable of receiving the types and quantities of prescribed wastes from ships normally using that harbour or terminal taking into account the operational needs of the users of the harbour or terminal, its size and geographical location, the types of ships calling there and any exemptions provided for under regulation 15.
- (3) A harbour authority or terminal operator may, in discharging their duty under paragraph (1), join with any other person in providing the waste reception facilities, and references in these Regulations to the provision of such facilities by a harbour authority or terminal operator shall be construed accordingly; and any such power shall also include power to arrange for the provision of such reception facilities by any other person.
- (4) This regulation is subject to regulation 15(1).

Direction to provide adequate waste reception facilities

5. Where in respect of any harbour or terminal it appears to the Minister, after consultation with the relevant harbour authority or terminal operator, that

- (a) the harbour or terminal has no waste reception facilities; or
- (b) if the harbour or terminal has such facilities, those facilities are not adequate within the meaning in regulation 4,

the Minister may direct the harbour authority or terminal operator to provide, or arrange for the provision of, such waste reception facilities as may be specified in the direction.

Requirements regarding waste management plans

6.(1) Subject to paragraph (3), every harbour authority shall prepare a waste management plan with respect to the provision and use of waste reception facilities in the harbour and the use of those facilities by ships using the harbour and shall submit the plan to the Minister for approval.

(2) The Minister may direct that a terminal operator shall prepare a waste management plan with respect to the provision and use of waste reception facilities for any terminal operated by the terminal operator within a harbour and specified in the direction and submit it to the Minister for approval.

(3) Where the Minister gives a direction under paragraph (2), in preparing a waste management plan under paragraph (1) the harbour authority for the harbour in which the terminal in question is situated shall not be required to deal with the provision and use of waste reception facilities for that terminal in the waste management plan which it prepares.

(4) In preparing a waste management plan the harbour authority or terminal operator shall consult

- (a) persons appearing to the harbour authority or terminal operator to represent the interests of
 - (i) persons using the harbour or terminal,
 - (ii) persons using the waste reception facilities at the harbour or terminal; and
- (b) such other persons (if any) as the harbour authority or terminal operator thinks fit.

(5) A plan prepared under this regulation shall comply with the requirements in Schedule 1 to these Regulations.

(6) A harbour authority may, in discharging their duty under paragraph (1) and where required for reasons of efficiency, join with one or more other harbour authorities to prepare a waste management plan with respect to the provision and use of waste reception facilities at the harbours in question.

(7) Where a plan is prepared under paragraph (6) the need for, and availability of, waste reception facilities shall be specified for each individual harbour.

(8) This regulation is subject to regulation 15(2).

Requirements regarding waste management plans: time for submission of first and subsequent plans

7. (1) Subject to paragraph (2), a harbour authority or terminal operator shall submit its first waste management plan to the Minister for approval in accordance with regulation 6(1) or (2), as the case may be

- (a) within three years of the date on which the Minister approved a waste management plan for the harbour or terminal in question under regulation 10(2)(b) of the Merchant Shipping (Port Waste Reception Facilities) Regulations 1997; or
- (b) within three years of the date on which the Minister prepared such a plan for the harbour or terminal in question pursuant to regulation 11 of those Regulations.

(2) A harbour authority for a new harbour, or a terminal operator for a new terminal to which a

direction under regulation 6(2) applies, shall submit a waste management plan to the Minister for approval in accordance with regulation 6(1) or (2), as the case may be, within nine months of the date on which the new harbour or terminal was opened; and for this purpose “new”, in relation to a harbour or terminal, means a facility which commences operations after the coming into force of these Regulations.

(3) A harbour authority or terminal operator shall submit subsequent waste management plans to the Minister for approval in accordance with regulation 6(1)

- (a) within nine months of any significant change to the operation of the harbour or terminal since the most recent plan was approved by the Minister pursuant to regulation 8(1) or prepared by him pursuant to regulation 9; or
- (b) no later than three years after the most recent plan was approved by the Minister pursuant to regulation 8(1) or prepared by him pursuant to regulation 9,

whichever is the sooner.

Approval and implementation of waste management plans

8.(1) The Minister may either

- (a) reject a plan submitted in accordance with regulation 6; or
- (b) approve the plan with or without modifications.

(2) A plan which has been approved by the Minister pursuant to paragraph (1) or prepared by the Minister pursuant to regulation 9 shall be implemented by the harbour authority or the terminal operator for the harbour or terminal to which the plan relates.

Power of the Minister to prepare a waste management plan

9. If the Minister 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 Minister may prepare such a plan.

Direction to implement a waste management plan

10. The Minister may direct any harbour authority or terminal operator to take such steps as are specified for the purposes of securing the implementation of a waste management plan in respect of the harbour or terminal in question which has been approved by him pursuant to regulation 8(1) or prepared by him pursuant to regulation 9.

Notification

11.(1) The master of a ship bound for a harbour or terminal shall complete a notice in the form set out in Schedule 2 to these Regulations.

(2) Subject to paragraph (3), the information in the notice referred to in paragraph (1) shall be notified by the master to the harbour authority for the harbour or terminal in question

- (a) where it is known at which harbour or terminal the ship will be calling, at least 24 hours before the arrival of the ship;
- (b) if the harbour or terminal at which the ship will be calling is not known until less than 24 hours before the arrival of the ship at that harbour or terminal, as soon as possible after the harbour or terminal is known; or
- (c) where the duration of the voyage is less than 24 hours, at the latest upon departure from the previous port.

(3) Where a waste management plan approved by the Minister pursuant to regulation 8(1) or prepared by him pursuant to regulation 9 specifies that in relation to a specified terminal the information in the notice referred to in paragraph (1) is to be notified to the terminal operator rather than the harbour

authority, that information shall be notified by the master to the terminal operator for the terminal in question

- (a) where it is known that the ship will be calling at the terminal, at least 24 hours before the arrival of the ship;
- (b) if it is not known that the ship will be calling at the terminal until less than 24 hours before the arrival of the ship, as soon as possible after it is known the ship will be calling at the terminal; or
- (c) where the duration of the voyage is less than 24 hours, at the latest upon departure from the previous port.

(4) A copy of the notice referred to in paragraph (1) shall be retained on board the ship until at least the next port of call is reached.

(5) The master of a ship bound for a harbour or terminal in the Virgin Islands shall

- (a) if the previous port of call of the ship was a port in an EEA State, and
- (b) VISMA request it,

produce to the VISMA, immediately on request, a copy of the notice retained in accordance with paragraph (4).

(6) Where the previous port of call of a Virgin Islands ship was a port in an EEA State, the master of that ship calling at a port of another EEA State shall, immediately on request by the competent authority of the latter State, produce to that authority a copy of the notice retained in accordance with paragraph (4).

Delivery of ship-generated waste

12. (1) Subject to paragraph (2), the master of a ship calling at a harbour or terminal shall ensure that before the ship leaves the harbour or terminal all ship-generated waste is delivered to a waste reception facility.

- (2) A ship may proceed to the next port of call without delivering ship-generated waste if
 - (a) the ship-generated waste in question is sewage, and the master of the ship is not required under regulation 11 to notify information about that waste; or
 - (b) subject to paragraph (3), it follows from the information notified under regulation 11(2) or (3) that there is sufficient dedicated storage capacity on board the ship to hold all the ship-generated waste that has been accumulated and all the ship-generated waste that will be accumulated during the intended voyage of the ship to the port of delivery.
- (3) Where
 - (a) the Minister is not satisfied that there is sufficient dedicated storage capacity for all ship-generated waste that has been accumulated and which will accumulate during the intended voyage of a ship to the port of delivery;
 - (b) there are good reasons to believe that adequate facilities are not available at the intended port of delivery; or
 - (c) the intended port of delivery is not known to the Minister,

he may give a direction to the master or owner of the ship requiring the ship-generated waste to be delivered before the ship leaves the harbour or terminal.

Charges for ship-generated waste

13. (1) Subject to paragraph (2), a harbour authority shall make charges (“waste charges”) in respect of ships to which this regulation applies.

- (2) Where a waste management plan approved by the Minister pursuant to regulation 8(1) or

prepared by him pursuant to regulation 9 specifies that in relation to a specified terminal the charges under this regulation are to be made by the terminal operator rather than the harbour authority, the terminal operator shall make charges for ships to which this regulation applies.

(3) A harbour authority or terminal operator (as the case may be) shall arrange for the amount of the charges made by it, and the basis on which they have been calculated, to be published in such manner as will bring them to the notice of persons likely to be affected.

(4) Any ship using a harbour or terminal shall pay the charges made under paragraph (1) or (2) to the harbour authority or terminal operator, as the case may be.

Charges for ship-generated waste: further provisions

14. (1) Waste charges shall be made at such level as will

- (a) ensure that each ship to which regulation 13 applies makes a significant contribution to the costs of waste reception facilities for ship-generated waste in the harbour or terminal, as the case may be (including the costs of the treatment and disposal of waste), irrespective of actual use of the facilities; and
- (b) provide no incentive for ships to discharge ship-generated waste into the sea.

(2) In making waste charges for ships a harbour authority or terminal operator may take into account the category, type and size of the ship.

(3) A harbour authority or terminal operator may make lower waste charges for any ship the environmental management, design, equipment and operation of which are such that the master can demonstrate the ship produces reduced quantities of ship-generated waste.

(4) In making waste charges under regulation 13(1) a harbour authority may make the charges in a combined charge [...omitted] or as a separate charge.

(5) ...omitted

(6) ...omitted

Exemptions

15. (1) The Minister may grant an exemption from regulation 4 in respect of any harbour authority or terminal operator to the extent that that regulation requires the harbour authority or terminal operator to provide waste reception facilities for noxious liquid substances.

(2) The Minister may grant an exemption from regulation 6 in respect of any harbour authority or terminal operator to the extent that that regulation requires the harbour authority or terminal operator to prepare a waste management plan with respect to the provision of waste reception facilities for noxious liquid substances.

(3) The Minister may grant an exemption from regulations 11, 12 and 13 in respect of any ship where

- (a) the ship is engaged in scheduled traffic with frequent and regular port calls; and
- (b) there is sufficient evidence of an arrangement ensuring the delivery of ship-generated waste and payment of charges in a port along the ship's route.

(4) Any exemption granted under this regulation shall be given in writing.

(5) The Minister may, on giving reasonable notice, alter or cancel any exemption granted under this regulation.

Delivery of cargo residues

16. (1) The master of a ship calling at a harbour or terminal shall ensure that cargo residues are

delivered to a waste reception facility in accordance with the Convention.

(2) Any charges made for such delivery shall be payable by the user of the facility.

Non-compliance or suspected non-compliance

17. (1) Where

- (a) the master of a ship has not complied with the requirement in regulation 11(2) or (3) to notify a harbour authority or terminal operator, as the case may be; or
- (b) a harbour authority or terminal operator has clear evidence that a ship has proceeded to sea without the master having complied with regulation 12(1) or 16(1), as the case may be, the harbour authority or terminal operator shall immediately inform the VISMA.

(2) Where there is clear evidence that a ship has proceeded to sea without having complied with regulation 12(1) or 16(1) the Minister shall, if the next port of call of the ship is a port of an EEA State, inform the competent authority of the State in which the port is situated about the ship and the evidence.

(3) Where the VISMA has been informed by another competent authority of a ship in respect of which there is clear evidence of the type mentioned in paragraph (1) the VISMA shall inspect the ship at the earliest opportunity.

Offences and penalties

18. (1) Any harbour authority or terminal operator which fails to comply with

- (a) any requirement of regulation 4 in relation to the provision of waste reception facilities;
- (b) any requirement of regulation 6 or 7 to prepare a waste management plan or to submit such a plan to the Minister for approval; or
- (c) any direction given under regulation 5 or 10 in relation to the provision of waste reception facilities or the implementation of a waste management plan,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale of fines in Schedule 5 of the Act.

(2) Any master who fails to comply with

- (a) any requirement of regulation 11(2), (3), (5) or (6);
- (b) the requirement under regulation 12(1);
- (c) any direction given under regulation 12(3); or
- (d) the requirement under regulation 16(1),

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale of fines in Schedule 5 of the Act.

(3) Where the master of a ship, in complying with regulation 11(2) or (3), notifies information which is false in a material particular, the owner of that ship and the master shall each be guilty of an offence and liable on summary conviction not exceeding level 5 on the standard scale of fines in Schedule 5 of the Act.

(4) Where there is a contravention of

- (a) any requirement of regulation 11(2), (3), (5) or (6);
- (b) the requirement under regulation 12(1);
- (c) any direction given under regulation 12(3); or
- (d) the requirement under regulation 16(1),

in respect of a ship the owner of that ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale of fines in Schedule 5 of the Act.

(5) In any proceedings for an offence under these Regulations it shall be a defence for the

defendant to show that all reasonable steps had been taken by him to avoid committing the offence.

Offences by body corporate

19. (1) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Inspection and detention of a Virgin Islands ship

20. (1) A relevant inspector may inspect any Virgin Islands ship.

(2) If the inspector is satisfied that ship-generated waste or cargo residues have not been delivered in accordance with regulation 12(1) or 16(1), he may detain the ship until such waste or residues have been delivered in accordance with those regulations.

(3) *...omitted*

(3A) *...omitted*

(4) The relevant inspector shall not in the exercise of his power under this regulation detain or delay the ship unreasonably.

Inspection and detention of ships other than Virgin Islands ships

21. (1) A relevant inspector may inspect any ship which is not a Virgin Islands ship when the ship is in a Virgin Islands port and, if he is satisfied that ship-generated waste or cargo residues have not been delivered in accordance with regulation 12(1) or 16(1) he may

(a) send a report to the government of the country in which the ship is registered; and

(b) detain the ship until such waste or residues have been delivered in accordance with those regulations,

when the ship has called at a Virgin Islands port in the normal course of business or for operational reasons.

(2) *...omitted.*

(3) If the ship is detained the relevant inspector shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(4) The relevant inspector shall not in the exercise of his power under this regulation detain or delay the ship unreasonably.

Enforcement of detention

22. Where a ship is liable to be detained under these Regulations, section 439 of the Act (which relates to the detention of a ship) shall apply as if for the words "this Act", wherever they appear, there were substituted "the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003".

Arbitration and compensation

(1) Sections 201 and 202 of the Act (arbitration and compensation) shall apply in relation to a detention notice under section 439 of the Act (as applied by regulation 22).

Review

23. ...omitted

SCHEDULE 1

Regulation 6(5)

REQUIREMENTS FOR WASTE MANAGEMENT PLANS

1. Waste management plans shall cover all types of prescribed wastes originating from ships normally visiting the harbour or terminal and shall be developed according to the size of the harbour or terminal and the types of ship calling at that harbour or terminal.
2. A waste management plan shall address the following elements
 - (a) an assessment of the need for waste reception facilities, in the light of the need of the ships normally visiting the harbour or terminal;
 - (b) a description of the type and capacity of waste reception facilities;
 - (c) a detailed description of the procedures for the reception and collection of prescribed wastes;
 - (d) a description of the charging system;
 - (e) procedures for reporting alleged inadequacies of waste reception facilities;
 - (f) procedures for on-going consultations with persons using the harbour or terminal, waste contractors and other interested parties; and
 - (g) the type and quantities of prescribed wastes received and handled.
3. A waste management plan shall also 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 processes in the harbour or terminal, if any;
 - (d) a description of methods of recording actual use of the waste reception facilities;
 - (e) a description of methods of recording amounts of prescribed wastes received;
 - (f) a description of how the prescribed wastes are disposed of.
4. 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.
5. The waste management plan shall provide for the following information to be made available to persons using the harbour or terminal
 - (a) brief reference to fundamental importance of proper delivery of prescribed wastes;
 - (b) location of waste reception facilities applicable to each berth, with a diagram or map;
 - (c) list of prescribed wastes normally dealt with;
 - (d) list of contact points, the operators and the services offered;
 - (e) description of procedures for delivery;
 - (f) Description of charging system; and
 - (g) Procedures for reporting alleged inadequacies of waste reception facilities.

SCHEDULE 2

Regulation 11(1)

INFORMATION TO BE NOTIFIED

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 number 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):
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 the last port of delivery identified under point 7 above (m 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 Marpol, in particular Marpol Annexes I, II and V.

Notes

1. This information may be used for port State control and other inspection purposes.
2. Member States will determine which 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 Article 9 of the Directive 2000/59/EC.

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

to time

Signature

ANNEX-2

UNITED KINGDOM M-NOTICES

[This text does not form part of the published adopted regulations]

To accompany UK Regulations, the Maritime and Coastguard Agency publishes M-Notices, comprising Merchant Shipping Notices(“MSNs”), Marine Guidance Notes (‘MGNs’) and Marine Information Notices (‘MINs’).

In some cases, the M-Notices are referenced in the Regulations and, where they are they are incorporated as part of the regulations, their provisions are as mandatory as those contained in the Regulations. Consequently, where the Virgin Islands has adopted UK Regulations which incorporate M-Notices, the M-Notices also have the force of law.

Table 1 below lists the M-Notices incorporated in the adopted Regulations in this way and provides a link to the UK Government’s website on which the latest version of the M-Notices can be found.

In other cases, M-Notices are issued which provide guidance on the regulations without being incorporated in the regulations. Although not having the force of law in the same way as incorporated M-Notices, they may nonetheless be relevant to the interpretation of the UK Regulations, as adopted in the Virgin Islands. Table 2 below lists these M-Notices.

In line with the Adoption Order, where the following terms appear in the M-Notices, they should be read as follows:

- (a) a reference to a United Kingdom ship or ships should be read as a reference to a Virgin Islands ship or ships.
- (b) any reference to Northern Ireland or Scotland should be omitted.
- (c) a reference to England and Wales or the United Kingdom should be read as a reference to the Virgin Islands.
- (d) a reference to the “Secretary of State”, the “Department for Transport” or to a “Minster” should be read as a reference to the Minister.
- (e) a reference to the “Maritime and Coastguard Agency” or “MCA”, should be read as a reference to the Virgin Islands Shipping and Maritime Authority.

TABLE 1 M-NOTICES INCORPORATED IN THE ADOPTED REGULATIONS

M-Notice Number	Title of M-Notice	Link
NONE		

TABLE 2: M-NOTICES INCORPORATED THAT MAY BE OF RELEVANCE TO THE ADOPTED REGULATIONS

M-Notice Number	Title of M-Notice	Link
MGN 358 (M+F)	Consolidated European Reporting System (CERS) Reporting requirements in respect of: - (1) Port Waste Infringements; and (2) Bulk Carrier Infringements	https://www.gov.uk/government/publications/mgn-358-cers-reporting-requirements-for-port-waste-and-bulk-carrier-infringements
MGN 563 (M+F) Amendment 2	Guidance on the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 and amendments	https://www.gov.uk/government/publications/mgn-563-mf-amendment-2-port-waste-reception-facilities-and-management-planning
MGN 631 (M+F) Amendment 1	The Merchant Shipping (Prevention of Pollution by Sewage from	https://www.gov.uk/government/publications/mgn-631-mf-amendment-1-the-merchant-shipping-prevention-of-pollution-by-sewage-from-ships-regulations-2020



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	Ships) Regulations 2020	
MGN 632 (M+F) Amendment 2	The Merchant Shipping (Prevention of Pollution by Garbage from Ships) Regulations 2020	https://www.gov.uk/government/publications/mgn-632-mf-amendment-2-the-merchant-shipping-prevention-of-pollution-by-garbage-from-ships-regulations-2020

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Virgin Islands Shipping & Maritime Authority

