Hamburg Act on the Disposal of Waste from Ships  
(HmbSchEG)  
Dated 26 January 2022

Latest available version of the complete edition as at 10 January 2024

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*the applicable law is the German original.
The Senate promulgates the following law passed by the City Assembly:

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Part 1  
General Regulations  
§ 1  Objective, Purpose, Scope of Application  


(2) The regulations are intended to prevent the unloading of waste from ships at sea by providing port reception facilities for waste from ships in the Free and Hanseatic City of Hamburg and providing effective
incentives for their use.

(3) This Act shall apply to ships, within the meaning of § 2 Sentence 1 Number 1, that call at a port in the territory of the Free and Hanseatic City of Hamburg. Ships used for port services within the meaning of Article 1 Paragraph 2 of Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and laying down common rules on the financial transparency of ports (OJ EU No. L 57 p. 1), as amended on 25 May 2020 (OJ EU No. L 165 p. 7), are exempt, as well as warships, naval auxiliaries and other ships owned or operated by a state and deployed for the time being only on a non-commercial state basis.

§ 2
Definitions

For the purposes of this Act, the term

1. “ship” means a seagoing vessel of any type used in the marine environment, including fishing vessels, recreational craft, hydrofoils, hovercraft, submersibles and floating craft;


3. “waste from ships” means all waste, including cargo waste, generated during the operation of the ship or during loading, unloading or cleaning operations and falling within the scope of Annexes I, II, IV, V and VI of MARPOL, as well as passively fished waste;

4. “passively fished waste” means waste collected in nets during fishing activities;

5. “cargo residues” means the remains of cargo on board which remain on deck or in holds or tanks after loading and unloading, including residues or spillages in wet or dry condition or contained in wash water arising from loading or unloading, excluding cargo dust or dust on the external surfaces of the ship remaining on deck after sweeping;

6. “port reception facility” means any fixed, floating or mobile device capable of providing the service of receiving waste from ships;

7. “fishing vessel” means a vessel equipped or used commercially to catch fish or other living marine resources;

8. “recreational craft” means a vessel of any type with a hull length of at least 2.5 metres, regardless of the type of propulsion, which is intended for sporting or leisure purposes and is not used for commercial purposes;

9. “port” means a place or geographical area, including the anchorage area within the port’s jurisdiction, which has been designed and equipped in such a way that the place or area is primarily intended to receive ships;

10. “sufficient storage capacity” means the availability of sufficient capacity to store the waste, including waste likely to be generated during the voyage, on board from the time of departure until the next port of call;

11. “scheduled service” means transport based on a publicly available or planned list of departure and arrival times for specific ports or repetitive crossings that constitute a recognisable timetable;

*the applicable law is the German original.
12. “regular call at a port” means repeated voyages by the same vessel in a consistent pattern between specific ports or a sequence of voyages to and from the same port without intermediate stops;

13. “frequent call at a port” means a ship calling at the same port at least once every fortnight;

14. “GISIS” means the Global Integrated Shipping Information System established by the International Maritime Organisation (IMO);

15. “treatment” means recovery or disposal operations, including preparation prior to recovery or disposal;

16. “indirect fee” means a fee paid for the provision of port reception facility services, irrespective of the actual unloading of waste from ships.


§ 3
Port Reception Facilities

(1) In the ports in the territory of the Free and Hanseatic City of Hamburg, sufficient port reception facilities for waste from ships are provided for incoming ships. The port reception facilities shall be considered adequate if they are suitable for receiving the type and quantity of waste from ships regularly calling at the ports without unduly delaying the ships.

(2) The port reception facilities enable the environmentally sound management of waste from ships in accordance with Directive 2008/98/EC and other relevant waste legislation.

(3) The port reception facilities collect individual fractions of waste separately in accordance with the waste categories defined in the MARPOL Convention.

§ 4
Waste Management Plan

(1) The Senate draws up a waste management plan for waste from ships for the ports in the area of the Free and Hanseatic City of Hamburg (Port Waste Management Plan). The content of the Port Waste Management Plan must comply with the requirements of Annex 1 of Directive (EU) 2019/883. The districts involved must be consulted before the Port Waste Management Plan is adopted or significantly amended. In particular, the port users or their representatives, the operators of the port reception facilities, the organisations that implement the obligations under extended producer responsibility and representatives of civil society must be given the opportunity to comment.

(2) The competent authority shall monitor the implementation of the Port Waste Management Plan. The Port Waste Management Plan shall be reviewed and, if necessary, revised following significant changes to port operations, but otherwise at least every five years after the date of its implementation or renewal.

(3) The competent authority shall provide port users with the following information contained in the Port Waste Management Plan publicly available and easily accessible on the Internet in German and English if it concerns:

1. the location of the port reception facilities with details of type and capacity and, where applicable,
opening hours for each berth,

2. waste from ships that are generally managed by the port,

3. the contact points, the operators of port reception facilities and the services offered,

4. the process of unloading and disposing of waste from ships,

5. the cost recovery system,

6. the procedure for reporting any shortcomings in the port reception facilities.

The competent authority shall transmit the information in accordance with Sentence 1 Numbers 1 to 6 as a summary of the Port Waste Management Plan to the coordination centre for electronic ship reporting for the purpose of forwarding it to the European Union's system for the exchange of maritime safety information (SafeSeaNet).

(4) Paragraphs 1 to 3 shall not apply to recreational craft ports, provided that their port reception facilities are integrated into the municipal waste management system administered by the Free and Hanseatic City of Hamburg and the port users are informed about the waste disposal procedure. The competent authority shall report the name and geographical coordinates of the recreational craft ports covered by Sentence 1 to the Coordination Centre for Electronic Ship Reporting for the purpose of forwarding them to SafeSeaNet.

§ 5
Pre-notification of Waste

(1) Operators, brokers or captains of a ship falling within the scope of Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ EU 2002 No. L 208 p. 10, 2009 No. L 51 p. 14), last amended on 20 June 2019 (OJ EU No. L 198 p. 241) intending to call at a port in the territory of the Free and Hanseatic City of Hamburg shall complete the form in Annex 2 to Directive (EU) 2019/883 at least 24 hours before arrival, as soon as the port of call is known if this information is available less than 24 hours before arrival, or upon departure from the last port if the voyage time is less than 24 hours, and report all the information contained therein via the procedure listed in Paragraph 2 or have it reported by the local representatives.

(2) The report referred to in Paragraph 1 shall be entered electronically directly into the data collection module of the Coordination Centre for Electronic Ship Reporting.

(3) Paragraph 1 does not apply to fishing vessels, traditional vessels and recreational craft with a length of less than 45 metres.

(4) The competent authority or the body commissioned by it is entitled to retrieve the information referred to in Paragraph 1 from the reports of the central reporting portal in accordance with § 7 Paragraph 2 of the Maritime Reporting Portal Act of 30 June 2017 (Federal Law Gazette I p. 2190), as amended, and to use it in accordance with § 8 of the Maritime Reporting Portal Act.

§ 6
Unloading of Waste from ships

(1) Captains of a ship must use the port reception facilities provided in the ports in the territory of the Free and Hanseatic City of Hamburg to unload all waste carried on board before setting sail.

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(2) The obligation in accordance with Paragraph 1 shall not apply if the notification in accordance to § 5 and Annex 2 of Directive (EU) 2019/883 or a notification in accordance with § 8 Paragraph 3 Sentence 2 shows that sufficient specific storage capacity is available for all ship-generated waste that has accumulated and will accumulate during the intended voyage to the port of unloading or if the ship anchors in adverse weather conditions that make unloading impossible. Sentence 1 does not apply if the next port of call is not known or if it cannot be determined on the basis of the available information, including the information available electronically in SafeSeaNet or GISIS, that suitable port reception facilities are available at the next port of call. The competent authority shall order the unloading of the waste if no suitable reception facilities are available at the next port of call or if the next port of call is not known.

(3) Information on ships that have not provided the information required under Directive (EU) 2019/883 in accordance with § 5, or have provided incorrect or incomplete information, shall be transmitted by the competent authority to the authority responsible for port state control.

(4) The operators of port reception facilities shall certify the type and quantity of waste accepted in accordance with Annex 3 of Directive (EU) 2019/883 (Waste Delivery Receipt) and forward this certificate to the captain and the competent authority. This requirement does not apply to marinas as defined in § 4 Paragraph 4, provided that the name and position of these ports are listed in SafeSeaNet.

(5) The captain transmits the information contained in the Waste Delivery Receipt electronically directly to the data collection module of the Coordination Centre for Electronic Ship Reporting prior to departure. The transmission can also be carried out by the local representatives.

§ 7
Unloading of Cargo res

(1) The consignees, as the cargo owners, are obliged to ensure that the cargo waste is taken over if this is technically feasible and economically reasonable. If a transfer is not possible, the captain must use the port reception facilities. Use is possible for a fee.

(2) If Annexes I, II and V of the MARPOL Convention require pre-washing of the cargo tank or hold before the ship leaves port, the consignees must ensure that the wash water produced is transferred, provided this is technically feasible and economically reasonable. If a transfer is not possible, the captain must use the port reception facilities. Use is possible for a fee.

(3) §§ 8 to 11 do not apply.

Part 2
Financing of Port Reception Facilities for the Disposal of Waste from Ships

§ 8
Obligation to Pay Fees

(1) The Free and Hanseatic City of Hamburg levies a charge per ship to cover the costs of port reception facilities for the disposal of waste from ships other than cargo waste.

(2) Shipowners, owners and charterers of a ship or their domestic representatives are obliged to pay the fee.

(3) The obligation to pay such fees arises upon the arrival of a ship in the port. Persons liable to pay the fee who do not call at recreational craft ports within the meaning of § 4 Paragraph 4 shall notify the competent authority in writing of the facts relevant to the calculation of the fee at the time specified in Sentence 1, unless these have already been submitted with the advance notification of waste pursuant to § 5.

(4) Upon request, the competent authority shall grant exemptions from the fee for ships that call at a port in the territory of the Free and Hanseatic City of Hamburg on a liner service with a *the applicable law is the German original.
regular timetable at least twice a month or at least twenty-four times a year, or which have been assigned a permanent berth by the competent authority in a port in the territory of the Free and Hanseatic City of Hamburg or another German seaport for more than 60 consecutive days a year, and

2. prove, by submitting disposal contracts or other suitable documents, that the proper unloading of waste from ships and the payment of disposal fees is guaranteed in a port in the territory of the Free and Hanseatic City of Hamburg or in another port on the ship’s route that is demonstrably suitable.

The exemption may only be granted if it does not have a detrimental effect on maritime safety, health, living and working conditions on board or the marine environment. The granting of exemptions may be limited in time and subject to ancillary provisions. It is subject to a fee. If the exemption is granted, the competent authority shall issue a certificate in accordance with the model in Annex 5 to Directive (EU) 2019/883 (exemption certificate) and transmit

1. copies of the exemption certificate to the competent authorities of other ports of call of the ship,

2. the data of the exemption certificate of the Coordination Centre for Electronic Ship Reporting for the purpose of forwarding to SafeSeaNet.

(5) If a ship is not obliged to pay a fee in accordance with Paragraph 4, the actual costs of disposal shall be invoiced if the port reception facilities are utilised.

§ 9 Cost Recovery System, Fee Amount

(1) The fee is to be calculated on the basis of criteria that are based on the quantity of waste to be disposed of from ships that regularly accumulates during proper ship operation (standard disposal). In particular, the category, type and size of the ship or the hazardous nature of the waste may be determined as a suitable basis for assessment.

(2) The amount of the fee shall be determined on the basis of the expected annual volume of ships, the expected annual volume of ships waste to be unloaded for the purpose of standard disposal operations, the indirect administrative fees in accordance with Column 2 of Annex 4 to Directive (EU) 2019/883 and at least 30 per cent of the annual direct operating costs for disposal at port reception facilities listed in Column 1 of Annex 4 to Directive (EU) 2019/883. Increases or decreases in revenue should be offset within the following three years.

(3) When calculating the fee, the types of waste according to Annex I (oil), Annex IV (ship sewage) and Annex V (ship-generated waste) of the MARPOL Convention must be considered appropriately. The annual expenditure required to carry out the standard disposal of ships waste in accordance with Annex I of the MARPOL Convention shall be compensated with a total share of at least 30 per cent of the fee revenue. Non-hazardous ships waste in accordance with Annex V of the MARPOL Convention and passively fished waste shall be accepted and disposed of within the framework of standard disposal at no additional cost up to the maximum ship-specific storage capacity specified in the form from Annex 2 of Directive (EU) 2019/883 completed in accordance with § 5 Paragraph 1 or in the notification in accordance with § 8 Paragraph 3 Sentence 2. Hazardous ships waste in accordance with Annex V of the MARPOL Convention shall only be accepted and disposed of within the framework of standard disposal at no additional cost up to a quantity specified by statutory order in accordance with § 13 Paragraph 3. The expenses to be reimbursed from the fee revenue in individual cases shall be specified by statutory order in accordance with § 13 Number 3. Any additional costs can be claimed directly from the ship operators.

(4) The fee can be reduced at the request of the ship operators

1. due to the nature of the trade for which the vessel is engaged, in particular if the vessel is engaged in short sea trade, or

2. if, as determined by the competent authority, the criteria published by the Commission of the European Union to determine that the design, equipment and operation of the ship demonstrate that

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the ship generates less waste and manages its waste in a sustainable and environmentally sound manner are met.

(5) The operators of a marina within the meaning of § 4 Paragraph 4 must ensure that all waste from ships that the captain wishes to dispose of or must dispose of by order of the authorities is accepted. The costs incurred for the disposal of non-hazardous waste in accordance with Annex V of the MARPOL Convention are to be covered by a port dues fee to be paid by all ships in the respective marina. The costs for the disposal of hazardous waste in accordance with Annex V of the MARPOL Convention and of waste in accordance with Annexes I to IV and VI of the MARPOL Convention may be charged to the party liable to pay the fee.

**§ 10**
**Determination of the Fee**

The fee is determined by the competent authority by written notification. The decision can be issued entirely by automated devices. Objection and action for annulment have no suspensive effect.

**§ 11**
**Intended Use**

The revenue from the fee shall be paid out to the operators of the port reception facilities after deduction of the personnel and material expenses associated with collection, storage and payment in the amount of the expenses required for standard disposal in accordance with § 12 Sentence 2.

**§ 12**
**Entitlement to disposal**

The parties liable to pay the fee have the right to have a standard disposal operation carried out for their ships subject to the fee at the port reception facilities designated by the competent authority. The expenditure required for standard disposal is to be compensated from the fee revenue.

**§ 13**
**Powers of Authorisation**

The Senate shall be authorised by statutory order

1. to determine the more detailed provisions of a standard disposal and the assessment basis pursuant to § 9 Paragraph 1 as well as the amount of the fee in accordance with § 9 Paragraphs 2 to 4 in conjunction with § 12 Sentence 2,
2. to regulate the facts to be notified by the persons liable to pay the fee in accordance with to § 8 Paragraph 3 Sentence 2 as well as the manner of notification, and
3. to determine the details of the expenses to be compensated from the fee revenue for a standard disposal pursuant to § 9 Paragraph 3 Sentences 2, 4 and 5 as well as the details of payment pursuant to § 11.

**Part 3**
**Monitoring, Administrative Offences**

**§ 14**
**Monitoring and Supervision**

*the applicable law is the German original.*
(1) The competent authority shall monitor compliance with the obligations under this Act and the ordinances issued on the basis of this Act. It shall, at its discretion, take the measures required in individual cases to ensure the implementation of the provisions of this Act and the ordinances issued on the basis of this Act. In particular, it may order that a ship does not leave the respective port in the territory of the Free and Hanseatic City of Hamburg until the obligations under §§ 6 and 7 have been fulfilled.

(2) The officials of the competent authority are authorised to enter the ship and the port facilities in order to carry out the tasks referred to in Paragraph 1. The fundamental right to inviolability of the home (Article 13 Paragraph 1 of the German Basic Law) is restricted in this respect.

(3) The officials of the competent authority must be authorised to enter the ship, to provide the necessary information and evidence on request and to inspect the ship’s papers. The fundamental right to inviolability of the home (Article 13 Paragraph 1 of the German Basic Law) is restricted in this respect.

(4) If a ship has sailed without fulfilling the obligations under §§ 6 and 7, the competent authority shall notify the authority responsible for the next port of call and the authority responsible for port state control.

§ 15
Administrative Offences

(1) Any person acts contrary to the regulations, who wilfully or negligently

1. fails to submit a report or submits an incomplete or incorrect report in contravention of § 5 Paragraph 1,

2. does not, contrary to § 6, use the port reception facilities provided for the unloading of waste from ships, before leaving a port in the territory of the Free and Hanseatic City of Hamburg,

3. fails to submit a waste deposit receipt in contravention of § 6 Paragraph 4,

4. does not, contrary to § 14 Paragraph 3, authorise officials of the competent authority to enter the ship, does not provide the necessary information on request, does not present the necessary evidence or does not allow inspection of the ship’s papers,

5. contravenes an ordinance issued on the basis of this Act insofar as it refers to this provision on fines for certain offences.

(2) The offence can be punished with a fine of up to 50,000 euros.

Part 4 Final Provisions

§ 16
Continued Authorisation to issue regulations

The Ship Waste Fee Ordinance of 6 May 2003 (HmbGVBl. p. 101), as amended on 18 December 2018 (HmbGVBl. p. 471) shall be deemed to have been enacted on the basis of § 13 of this Act.

§ 17
Entry into Force, Expiry

This Act shall enter into force on the first day of the fourth month following its promulgation. At the same time, the Hamburg Act on the Disposal of Ship Waste of 17 December 2002 (HmbGVBl. p. 343) in the
current version is no longer in force.

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