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STATUTORY INSTRUMENTS

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**1987 No. 37**

**The Dangerous Substances in Harbour Areas Regulations 1987**

**PART II**

**ENTRY OF DANGEROUS SUBSTANCES INTO HARBOUR AREAS**

**Notice of entry of dangerous substances**

6.—(1) Subject to paragraphs (4) and (5) and to regulation 9, a dangerous substance shall not be brought into a harbour or harbour area unless—

- (a) in the case of a vessel, the master or agent; or
- (b) in the case of any other mode of transport, the operator,

has given to the harbour master and, if the substance is to be brought to a berth, to the berth operator, notice containing the particulars referred to in paragraph (3) not less than 24 hours, or such longer time in respect of both notices as the harbour master may for operational reasons require but which shall not exceed 14 days, before the substance is brought in or, if it is not reasonably practicable to give 24 hours notice, such shorter time in respect of both notices as the harbour master and berth operator may together agree.

(2) Where a vessel carrying a dangerous substance is to enter a harbour area not to load or unload there but on the way to loading or unloading in an overlapping harbour area or in an abutting harbour area then the notice required under paragraph (1) shall be given to the harbour master of that harbour area and to the harbour master and, if the substance is to be brought to a berth, to the berth operator of that overlapping or abutting harbour area.

(3) Any notice required under paragraph (1) may be given up to six months in advance and shall be in writing or in such other form as the harbour master may agree and shall contain such information as is adequate to evaluate the risk created by the substance to the health and safety of any person and, in the case of a notice given by the master or agent of a vessel, shall in addition contain the following information, namely—

- (a) where the International Maritime Organisation recommends that the vessel should have a certificate of fitness, whether it has a current certificate of fitness;
- (b) in the case of a vessel which is an oil tanker required to have valid cargo-ship safety construction and safety equipment certificates under a Safety of Life at Sea Convention whether it has such valid safety certificates.

(4) Notice need not be given under paragraph (1) in respect of—

- (a) a radioactive substance in a package which is exempt from the requirements of Part II of the Radioactive Substances (Carriage by Road) (Great Britain) Regulations 1974<sup>(1)</sup> by virtue of regulation 20 of those Regulations;

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(1) S.I. 1974/1735.

- (b) a dangerous substance carried by a vessel which is to pass through the harbour area and will not load or unload either in that harbour area or in an overlapping harbour area or in an abutting harbour area;
- (c) a dangerous substance in a pipeline;
- (d) a dangerous substance carried by a British or foreign warship; or
- (e) without prejudice to sub-paragraph (d) above, explosives carried by any other vessel in the service of the Crown, where either—
  - (i) the master of the vessel has informed the harbour master that the quantity of explosives carried is within the limit of any condition to which the entry into or the carrying or handling within the harbour or harbour area of explosives will be subject, or
  - (ii) those explosives are for use at sea and no handling of the explosives takes place while the vessel is in the harbour or harbour area.

(5) Where it appears to a harbour master necessary for securing the health or safety of any person, he may exempt any person from the prohibition in paragraph (1) in so far as it relates to the giving of notice to him or to a berth operator in his harbour or harbour area and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time.

(6) A harbour master granting or revoking an exemption shall make a record thereof as soon as is reasonably practicable thereafter including any conditions and limit of time attached thereto.

### **Harbour master's powers of prohibition, removal and regulation relating to dangerous substances**

7.—(1) Subject to paragraph (7) and without prejudice to any powers that may be given to him by byelaws made under regulation 43, a harbour master may if in his opinion the condition of any dangerous substance is such as to create a risk to the health or safety of any person and having regard to the matters set out in paragraph (3) give directions as set out in paragraph (5) to the person having control of that substance or of any freight container, portable tank or receptacle containing that substance or of any vehicle or vessel carrying that substance.

(2) Subject to paragraph (7) and without prejudice to any powers that may be given to him by byelaws made under regulation 43, a harbour master may if in his opinion the condition of—

- (a) any freight container, portable tank or receptacle containing a dangerous substance;
- (b) any vehicle or vessel carrying a dangerous substance,

is such as to create a risk to the health or safety of any person from that substance and having regard to the matters set out in paragraph (3) give directions as set out in paragraph (5) to the person having control of that freight container, portable tank, receptacle, vehicle or vessel or of any dangerous substance contained or carried therein.

(3) In determining whether to give any directions under paragraph (1) or (2) in any particular case, a harbour master shall have regard to all the circumstances of that case and, in particular, he shall have regard to the safety of any person, whether that person is within or outside the harbour or harbour area.

- (a) (4) (a) Where a harbour master has given directions under paragraph (1) or (2) or both, the Secretary of State may, for the purposes of securing the safety of any person, give directions to that harbour master requiring him to give such other directions under this paragraph as may be specified by the Secretary of State.
- (b) The directions given by the harbour master under this paragraph shall be given to such person having control of a dangerous substance or of a freight container, portable tank or receptacle containing a dangerous substance or of a vehicle or vessel carrying a dangerous

substance as may be specified by the Secretary of State and shall concern such of the matters set out in paragraph (5) as may be specified by the Secretary of State and when given shall cause the directions originally given by the harbour master under paragraph (1) or (2) or both to cease to have effect.

- (5) The directions referred to in paragraphs (1), (2) and (4) may—
- (a) regulate or prohibit the entry into;
  - (b) require the removal from;
  - (c) regulate the handling, movement or position within;

the harbour or harbour area of that substance, freight container, portable tank, receptacle, vehicle or vessel.

(6) Where the harbour master intends to give a direction requiring a dangerous substance to be removed by land from the harbour or harbour area, he shall, before giving the direction, consult the chief officer of police for the police district in which the harbour or harbour area is situated.

(7) A person to whom directions are given under this regulation shall comply with those directions.

(8) Paragraphs (1) and (2) shall not apply to any vessel in the service of the Crown or to any dangerous substance, freight container, portable tank or receptacle being carried by such a vessel.

(9) A harbour master shall not by virtue of this regulation be under any duty to examine the condition of any substance, freight container, portable tank, receptacle, vehicle or vessel.

(10) Directions may be given by the harbour master under paragraphs (1) and (2) in any such reasonable manner as he may think fit.