
 STATUTORY INSTRUMENTS

1990 No. 2605

**MARINE POLLUTION
MERCHANT SHIPPING**
SAFETY
**The Merchant Shipping (Dangerous Goods and Marine
Pollutants) Regulations 1990**

<i>Made</i>	- - - -	<i>19th December 1990</i>
<i>Laid before Parliament</i>		<i>21st December 1990</i>
<i>Coming into force</i>	-	<i>1st January 1991</i>

The Secretary of State for Transport in exercise of powers:-

- (i) conferred on him by article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1990(a);
- (ii) conferred on him by sections 21(1)(a) and (b) and (3), (4), (5) and (6) and 22(1) of the Merchant Shipping Act 1979(b), after consulting with the persons referred to in section 22(2) of that Act; and
- (iii) conferred by section 15(1) of the Health and Safety at Work etc Act 1974(c), and now vested in him (d), after consulting with the Health and Safety Commission, in accordance with section 50(1) of that Act, it appearing to the Secretary of State that it was not appropriate to consult with any other body for the purposes of that subsection;

and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I**General****Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990 and shall come into force on 1st January 1991.

(2) The Merchant Shipping (Dangerous Goods) Regulations 1981(e) and the Merchant Shipping (Dangerous Goods) (Amendment) Regulations 1986(f) are hereby revoked.

(a) S.I. 1990/2595.

(b) 1979 c.39: section 21(6) was amended by section 49(3) of the Criminal Justice Act 1982 (c.48).

(c) 1974 c.37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c.71) Schedule 15, paragraphs 6 and 16 respectively.

(d) S.I. 1979/571 and 1981/238.

(e) S.I. 1981/1747, amended by S.I. 1986/1069.

(f) S.I. 1986/1069.

(3) In these Regulations, except where the context otherwise requires:

“Bulk Cargoes Code” means the 1989 edition of IMO Code of Safe Practice for Solid Bulk Cargoes;

“BCH Code” means the 1990 edition of IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

“correct technical name” means a description of the goods sufficient to identify their dangerous characteristics, including any proper shipping name described in the IMDG Code;

“dangerous goods declaration” means a certificate or declaration in writing, signed by the person making it that the shipment offered for carriage is properly classified, packaged, marked, labelled or placarded, as appropriate, in accordance with the IMDG Code and is in a proper condition for carriage by sea;

“dangerous goods” means goods classified in the IMDG Code or in any other IMO publication referred to in these Regulations as dangerous for carriage by sea, and any other substance or goods the properties of which might be dangerous if that substance or those goods were carried by sea, and includes empty receptacles, residues in empty tanks or cargo holds which have been used previously for the carriage of dangerous goods unless such receptacles, empty tanks or cargo holds have been cleaned and dried, purged, gas freed or ventilated as appropriate or in the case of radioactive materials have been both cleaned and adequately closed; but the expression shall not include goods forming part of the equipment or stores of the ship in which they are carried;

“durably marked” means that the label or other marking in accordance with the provisions of these Regulations is such as to remain identifiable on the packages surviving at least three months immersion in the sea and “durable” shall be construed accordingly;

“employee” means a person (including the master but excluding dock workers or shore-based repair or other workers temporarily employed on board the ship) employed:

- (i) in the deck, engine, radio, medical or catering department of a ship, or
- (ii) in the provision of goods, services or entertainment on board;

“explosives” are those articles and substances contained in Class 1 of the IMDG Code;

“flammable liquid” means a liquid the flash point of which is at or below 60 degrees Celsius (closed cup) in respect of bulk cargoes and at or below 61 degrees Celsius (closed cup) in respect of packaged goods;

“forwarder” means the person by whom dangerous goods or marine pollutants are delivered to the ship or its agent;

“Gas Carrier Code” means the 1983 edition of IMO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

“Gas Carrier Code for Existing Ships” means the 1976 edition of IMO Code for Existing Ships Carrying Liquefied Gases in Bulk, including the first set of amendments (adopted by the Maritime Safety Committee of IMO in April 1978), the second set of amendments (adopted by the Maritime Safety Committee of IMO in May 1979), the third set of amendments (adopted by the Maritime Safety Committee of IMO in May 1980) and the fourth set of amendments (adopted by the Maritime Safety Committee of IMO in November 1984);

“handling” includes the operations of loading, unloading and transferring dangerous goods and cleaning, purging, gasfreeing, ullaging, sounding, sampling and similar operations required for the carriage of such goods in a ship;

“IMDG Code” means the 1990 consolidated edition of the International Maritime Dangerous Goods Code;

“IMO” means the International Maritime Organization;

“in bulk” means directly and without intermediate form of containment in a hold, tank or cargo space, which is a structural part of or permanently attached to a ship;

“IBC Code” means the 1990 edition of IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

“IGC Code” means the 1983 edition of IMO International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

“marine pollutants declaration” means a certificate or declaration in writing, signed by the person making it, that the shipment offered for carriage is properly classified, packaged and marked in accordance with the IMDG Code and is in a proper condition for carriage to minimise the hazard to the marine environment;

“marine pollutant” means a substance which presents a hazard to the marine environment and is identified in the IMDG Code as a marine pollutant;

“Merchant Shipping Notice” means a Notice described as such, issued by the Department of Transport and any reference to a particular Merchant Shipping Notice includes a reference to any Merchant Shipping Notice amending or replacing it which specifies the date on which such subsequent Notice takes effect and which the Secretary of State considers relevant from time to time;

“package” means an individual package or receptacle described in the IMDG Code and includes a freight container or a portable tank or tank container or tank vehicle or other vehicle or other cargo transport unit containing dangerous goods or marine pollutants for shipment, and “packaged” shall be construed accordingly;

“packaged goods” means packaged dangerous goods or packaged marine pollutants;

“shipper” means a person who, whether as principal or agent for another, consigns for carriage by sea dangerous goods or marine pollutants;

“shipowner” includes:

- (i) where the ship is chartered by demise, the demise charterer
- (ii) where the ship is managed by a ship management company, the manager;

“UN number” means the number allocated to the dangerous substance or article by the United Nations Committee of Experts on the Transport of Dangerous Goods specified in the sixth revised edition of their publication “Recommendations on the Transport of Dangerous Goods” published in 1989 by the United Nations Organization;

“United Kingdom Ship” has the same meaning as in section 21(2) of the Merchant Shipping Act 1979.

(4) Any reference in these Regulations to the Bulk Cargoes Code, the BCH Code, the Gas Carrier Code, the Gas Carrier Code for Existing Ships, the IMDG Code, the IBC Code, the IGC Code or the United Nations publication entitled “Recommendations on the Safe Transport of Dangerous Goods” shall include a reference to any document amending that publication which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice.

(5) Where these Regulations require the carriage of dangerous goods or marine pollutants to be in accordance with a Code referred to in paragraph (4) above, and the Secretary of State has specified in Merchant Shipping Notices M1435, M1436 or M1437 conditions in relation to such carriage then (whether or not the Code contains conditions on such matters) the Code shall have effect for the purpose of these Regulations as if it contains the conditions so specified by the Secretary of State. “Carriage” in this paragraph includes packing, documentation, packaging, marking, labelling, stowage, segregation and handling.

(6) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes or cases or individual cases on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

(7) The Dangerous Substances in Harbour Areas Regulations 1987(a) are hereby amended as follows:

- (a) in regulation 2(1) in sub-paragraph (a)(i) of the definition of “classification”, and in regulation 25(2)(e), for “the Merchant Shipping (Dangerous Goods) Regulations 1981” there shall be substituted “the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990”;

- (b) in regulation 2(1), in the definition of "the IMDG Code", for "regulation 1(2) of the Merchant Shipping (Dangerous Goods) Regulations 1981" there shall be substituted "regulation 1(3) of the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990";
- (c) in regulation 3(1), for "regulation 1(2) of the Merchant Shipping (Dangerous Goods) Regulations 1981" there shall be substituted "regulation 1(3) of the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990; except that nothing in those Regulations shall be construed as defining a marine pollutant in Class 9 of the IMDG Code under UN number 3077 or 3082 or any substance otherwise included in Class 9 of the IMDG Code solely by reason of its being a marine pollutant, as a dangerous substance for the purpose of these Regulations."

Application

2.—(1) These Regulations apply to ships carrying dangerous goods in bulk or packaged form and marine pollutants in packaged form.

(2) These Regulations apply to United Kingdom ships wherever they may be and to other ships while they are within the United Kingdom or the territorial waters thereof.

General duties of shipowners and employers

3.—(1) It shall be the duty of every shipowner and employer of persons aboard a ship and every master of a ship to ensure, so far as is reasonably practicable, that when dangerous goods are being handled, stowed or carried on the ship nothing in the manner in which those goods are handled, stowed or carried as the case may be is such as might create a risk to the health or safety of any person.

(2) Without prejudice to the generality of the shipowner's or employer's or master's duty under paragraph (1) above:—

- (a) the matters to which the duty of the shipowner and of the employer extends shall include in particular:
 - (i) the provision and maintenance of ship's structure, fittings and equipment for the handling, stowage and carriage of dangerous goods which is, so far as reasonably practicable, safe and without risk to health;
 - (ii) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as reasonably practicable, the health and safety aboard ship of all employees in connection with the handling, stowage and carriage of dangerous goods in the ship; and
- (b) the duty of a master of a ship registered outside the United Kingdom shall include the matters specified in sub-paragraphs (2)(a)(i) and (ii).

(3) If a shipowner or employer or master fails to comply with any of the provisions of this regulation he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level five on the standard scale.

(4) It shall be a good defence to a charge under this regulation in relation to the handling of dangerous goods that such handling was carried out in accordance with the Code of Practice at annex 1 to the Merchant Shipping Notice M1213.

General duties of employees aboard ship

4.—(1) It shall be the duty of every employee aboard ship:

- (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions in connection with the handling, stowage and carriage of dangerous goods in the ship; and
- (b) as regards any duty or requirement imposed on his shipowner or employer by the Merchant Shipping Acts 1894 to 1988 or any regulation or rule made thereunder with regard to the health and safety of persons aboard a ship to which these Regulations apply to cooperate with the shipowner or employer so far as is necessary to enable that duty or requirement to be performed or complied with in connection with the handling, stowage and carriage of dangerous goods in the ship.

(2) If any employee aboard a ship carrying dangerous goods fails to comply with any of the provisions of this regulation he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level three on the standard scale.

Misconduct endangering the ship or persons aboard ship

5.—(1) In connection with the handling, stowage and carriage of dangerous goods in the ship, no person shall intentionally or recklessly interfere with or misuse anything provided on, or disobey instructions displayed on, a United Kingdom ship in the interests of health or safety in pursuance of the Merchant Shipping Acts 1894 to 1988 or any regulation or rule made thereunder.

(2) If any person in a ship carrying dangerous goods fails to comply with any of the provisions of this regulation he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level four on the standard scale.

Onus of proving what is reasonably practicable

6. In any proceedings for an offence under this Part of these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

PART II

Carriage of Packaged Goods

Documentation

7.—(1) (a) No packaged goods shall be offered for carriage or taken on board any ship unless a dangerous goods declaration or a marine pollutants declaration as appropriate has been furnished to the shipowner or master.

(b) Where goods are both dangerous and a marine pollutant, the dangerous goods declaration and the marine pollutant declaration may be a combined document.

(2) Such declaration shall indicate the correct technical name followed by the words MARINE POLLUTANT where appropriate, the UN number (where one exists) and in the case of dangerous goods shall indicate to which of the following classes the goods belong:

- Class 1— Explosives.
- Class 2— Gases compressed, liquefied or dissolved under pressure, subdivided into three categories:
 - 2.1 Flammable gases;
 - 2.2 Non-flammable gases, being compressed, liquefied or dissolved but neither flammable nor poisonous;
 - 2.3 Poisonous gases.
- Class 3— Flammable liquids, subdivided into three categories:
 - 3.1 Low flashpoint group of liquids having a flashpoint below -18 degrees Celsius, closed cup test;
 - 3.2 Intermediate flashpoint group of liquids having a flashpoint of -18 degrees Celsius up to, but not including, 23 degrees Celsius, closed cup test;
 - 3.3 High flashpoint group of liquids having a flashpoint of 23 degrees Celsius up to and including 61 degrees Celsius, closed cup test.
- Class 4.1— Flammable solids.
- Class 4.2— Substances liable to spontaneous combustion.
- Class 4.3— Substances which in contact with water emit flammable gases.
- Class 5.1— Oxidising substances (agents).
- Class 5.2— Organic peroxides.
- Class 6.1— Poisonous (toxic) substances.
- Class 6.2— Infectious substances.
- Class 7— Radioactive materials.
- Class 8— Corrosives.
- Class 9— Miscellaneous dangerous substances and articles which present a danger not covered by other classes.

- (3) Such declaration shall include the following information where appropriate:
- (a) the number and type of packages;
 - (b) the total quantity of packaged goods covered by the declaration (gross Mass or Volume);
 - (c) other information required by the IMDG Code.
- (4) The declaration shall include a statement that the goods are packaged in accordance with these regulations.
- (5) It shall be the duty of the shipper to furnish the shipowner or master with the declaration required by this regulation, unless he does not deliver the goods to the ship or its agent. In such case it shall be the duty of the shipper to furnish the forwarder with such declaration.
- (6) In the case that the shipper does not deliver the goods to the ship or its agent it shall be the duty of the forwarder to furnish the shipowner or master with the declaration.
- (7) If a shipper or a forwarder fails to furnish a declaration as required by this regulation, or furnishes a declaration which he knew or ought to have known to be false, he shall be guilty of an offence.
- (8) If a shipowner or master accepts for carriage, or takes or receives on board any packaged goods for which a declaration which is required by this regulation has not been furnished, he shall be guilty of an offence.

Packing Certificates

- 8.—(1) Where packaged goods have been packed into a freight container or in to or on to a vehicle, the person responsible for packing such goods therein shall furnish the shipowner or master of the ship with a signed packing certificate in accordance with the requirements of the IMDG Code.
- (2) If the person responsible for packing such goods fails to furnish the owner or the master of the ship with a signed packing certificate he shall be guilty of an offence.
- (3) A shipowner or his agent or the master shall not take on board a ship any freight container or vehicle with such goods in it without a signed packing certificate unless he has satisfied himself otherwise that the freight container or vehicle has been packed in accordance with the IMDG Code. If a shipowner or his agent or the master fails to comply with the provisions of this paragraph he shall be guilty of an offence.

List, manifest or stowage plan

- 9.—(1) The master of a ship carrying packaged goods shall cause a special list, manifest or stowage plan to be carried in the ship:—
- (a) setting out details, obtained from the shipping documents submitted by the shipper, of the packaged goods on board including the correct technical name of the goods, their classification in accordance with the regulation 7(2) and their mass or volume; and
 - (b) showing details of the location in the ship where the goods are stowed.
- (2) The information required by paragraph (1) may be contained in one combined list, manifest or stowage plan relating to both packaged dangerous goods and packaged marine pollutants, or in two such lists, manifests or stowage plans, one relating to dangerous goods and the other to marine pollutants. Where a combined document is used it shall show clearly which goods are dangerous goods and which are marine pollutants.
- (3)(a) Before a ship carrying marine pollutants departs from a port, the shipowner and master shall arrange for a copy of any such list, manifest or stowage plan of marine pollutants to be kept on shore and it shall be the duty of the shipowner to retain it there until the goods are discharged from the ship or for a period of six months from loading in the case of such goods not being discharged within that time.
- (b) Any person duly authorised by the Secretary of State shall be furnished on request with a copy of any list, manifest or stowage plan referred to in sub-paragraph (a) of this paragraph for retention by him or otherwise as he may specify.

(4) The master shall also carry in the ship any additional special documents where required by the IMDG Code for the carriage of packaged dangerous goods.

(5) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of such goods for carriage in the ship shall be kept available for reference or inspection on board the ship until the goods have been discharged from the ship.

(6) If the master of a ship carrying packaged goods fails to cause a list, manifest or stowage plan or additional special documents to be carried in the ship or kept available as required by paragraph (5) of this regulation, he shall be guilty of an offence.

(7) If there is any breach of paragraph (3) of this regulation the shipowner and master shall each be guilty of an offence.

Packaging of dangerous goods and marine pollutants

10.—(1) The packaging of packaged goods shall be in accordance with the IMDG Code. Such packaging shall, if required by the IMDG Code, be performance tested as specified in the Code.

(2) Packaged goods shall not be taken on board any ship for carriage in that ship if the shipowner or master knows or ought to know that the goods are not packaged in such a manner as to withstand the ordinary risk of carriage by sea.

(3) If the shipowner or master or the shipper of such goods fails to comply with the provisions of this regulation he shall be guilty of an offence.

Marking and Labelling

11.—(1) Dangerous goods or marine pollutants which are contained in a package shall not be taken on board a ship for carriage in that ship unless the conditions in this Regulation are satisfied.

- (2)(a) Packages containing dangerous goods or marine pollutants shall be durably marked in accordance with the IMDG Code.
- (b) Packages containing dangerous goods shall be provided with labels or stencils of labels or placards where specified in the IMDG Code.
- (c) The method of marking the correct technical name and of affixing labels or applying stencils of labels or placards or marine pollutants marks as appropriate, on packages containing dangerous goods or marine pollutants shall be such that the information marked, affixed or applied will remain legible after the package has been immersed for three months in the sea or if the package itself disintegrates before the end of that period, for as long as the package will last. Where the outer material of the package is such that it will not survive at least three months' immersion in the sea, any inner receptacles which will survive such immersion shall be durably marked with an indication of the nature of the danger to which the goods give rise, which indication may be given by any suitable means including (but not restricted to) an IMDG Code Class symbol or marine pollutant mark, or both of an appropriate size.
- (d) Without prejudice to the above requirements, where the goods are contained in a freight container, vehicle, portable tank or tank container, the cargo transport unit in which the goods are contained shall bear conspicuously on its exterior distinctive placards or other appropriate marking, in accordance with the IMDG Code.

(3) Any breach of the requirement of this regulation relating to the marking, labelling or placarding of packaged goods shall be an offence on the part of the shipper of those goods.

(4) If a shipowner or master accepts dangerous goods or marine pollutants to be taken on board a ship in any package which has not been marked and labelled, or placarded as provided for in this regulation he shall be guilty of an offence.

Stowage

12.—(1) Packaged goods shall be stowed, segregated and secured in accordance with the IMDG Code.

(2) Where packaged goods are shipped in or on a vehicle or freight container which was loaded after those goods left the premises or control of the shipper it shall be the duty of the person responsible for loading that vehicle or freight container to ensure that the stowage, segregation, and securing of those goods in the vehicle or freight container is adequate and is in accordance with the IMDG Code.

(3) If a shipowner or master or the person responsible for packing goods in a freight container or vehicle or for stowing the goods in the ship, fails to comply with the provisions of this regulation he shall be guilty of an offence.

Carriage of explosives

13.—(1) No explosives which the shipowner or master knows or ought to know presents a serious risk when carried in a ship shall be taken on board any ship unless:—

- (a) such explosives are stowed in a compartment in which any electrical apparatus and cables are so designed and used as to minimise the risk of fire or explosion; and
- (b) detonators are effectively segregated from all other explosives; and
- (c) the stowage and segregation of explosives are in accordance with the IMDG Code; and
- (d) where such explosives are required to be stowed in a magazine, such magazine is kept securely closed while the ship is at sea.

(2) If the shipowner or master fails to comply with this regulation he shall be guilty of an offence.

Carriage of packaged dangerous goods in passenger ships

14.—(1) Stowage and segregation of all packaged dangerous goods carried aboard a passenger ship shall be in accordance with the IMDG Code.

(2) Explosives in Class 1, division 1.4, compatibility group S may be carried in any amount in passenger ships. No other explosives may be carried in a passenger ship with more than 12 passengers except any one of the following:—

- (a) explosive articles for life-saving purposes, if the total net explosives mass of such articles does not exceed 50 kg per ship; or
- (b) explosives in compatibility groups C, D and E, if the total net explosives mass does not exceed 10 kg per ship; or
- (c) explosive articles in compatibility group G other than those requiring special stowage, if the total net explosives mass does not exceed 10 kg per ship; or
- (d) explosive articles in compatibility group B, if the total net explosives mass does not exceed 5 kg per ship.

(2) In this regulation, references to 'compatibility groups' and 'division' are references to compatibility groups and divisions for explosives indicated in the IMDG Code.

(3) If the shipowner or master fails to comply with this regulation he shall be guilty of an offence.

Document of compliance to carry packaged dangerous goods

15.—(1) No packaged dangerous goods shall be taken on board any ship the keel of which was laid or which was at a similar stage of construction on or after 1st September 1984 unless it has on board a document of compliance, issued by or on behalf of the Secretary of State or the competent authority of the country in which it is registered, that the spaces in which the packaged dangerous goods are to be carried comply with the provisions of regulations 143 of the Merchant Shipping (Fire Protection) Regulations 1984(a) appropriate to the classification of those goods intended for stowage in or on that space.

(2) If the shipowner or the master fails to comply with this regulation, he shall be guilty of an offence.

(a) S.I. 1984/1218.

PART III

Carriage of Dangerous Goods in Bulk

16.—(1) Dangerous goods shall not be handled or carried in bulk in any ship if the shipowner has any cause to believe that such goods may not be so handled or carried in bulk safely in that ship.

(2) Without prejudice to paragraph (1) of this regulation:—

(a) where the dangerous goods in question are goods listed in Chapter VI of the BCH Code, or in Chapter 17 of the IBC Code, or in Chapter XIX of the Gas Carrier Code for Existing Ships, or in Chapter XIX of the Gas Carrier Code, or in Chapter 19 of the IGC Code, or are classified dangerous goods listed in Appendix B of the Solid Bulk Cargoes Code, they shall be handled and carried in accordance with the requirements of whichever of the Codes is appropriate; or

(b) where the dangerous goods in question consist of a liquid chemical or a liquefied gas which is not listed in the Codes mentioned in sub-paragraph (a), they shall be handled and carried in accordance with an approval given by the Secretary of State. Any such approval shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

(3) If there is any breach of the requirements of this regulation the shipowner and master shall each be guilty of an offence.

Documentation

17.—(1) The shipper of any dangerous goods to be carried in bulk shall furnish the shipowner or the master with a notification in writing giving notice of the nature of the goods and, in the case of liquid goods with a flashpoint at or below 60 degrees Celsius (closed cup) specifying the flashpoint of those goods. Such notification shall specify the correct technical name of the goods, their UN number (if any) and, for dangerous goods carried in solid form in bulk, the classification as listed in regulation 7(2) to which those goods belong.

(2) If a shipper of dangerous goods in bulk fails to furnish the shipowner or master with such a notification in writing, or furnishes a notification which he knows or ought to have known to be false, he shall be guilty of an offence.

(3) The master of a ship carrying any dangerous goods in bulk shall cause a specific list, manifest or stowage plan to be carried in the ship:—

(a) setting out details, obtained from the shipping documents submitted by the shipper, of the dangerous goods carried aboard the ship for the voyage on which it is currently engaged including the correct technical name of the goods, their mass or volume, and where the dangerous goods are shown in Appendix B of the Bulk Cargoes Code, the classification in accordance with regulation 7(2); and

(b) showing details of the location in the ship where the goods are stowed.

(4) The master shall also carry in the ship any additional special documents where required by the Bulk Cargoes Code, the BCH or IBC Codes or the IGC or Gas Carrier Codes for the carriage of dangerous goods.

(5) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of such goods for carriage in the ship shall be kept available for reference or inspection on board the ship until the goods have been discharged from the ship.

(6) If the master of a ship carrying dangerous goods in bulk fails to cause a list or stowage plan to be carried in the ship or kept available as required by paragraph (5) of this regulation, he shall be guilty of an offence.

PART IV**Enforcement****Power to Detain**

18.—(1) In any case where a ship does not comply with the requirements of these Regulations the ship shall be liable to be detained and section 692(1) to (3) of the Merchant Shipping Act 1894(a) (which relates to the detention of a ship) shall have effect in relation to the ship, subject to the modification that for the words “this Act”, wherever they appear, there shall be substituted the words “the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990”.

Penalties and defences

19.—(1) A person guilty of an offence under Parts II or III of these Regulations shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

(2) In any proceedings for an offence under Parts II or III these Regulations it shall be a defence for a person to prove that:—

- (a) all reasonable steps had been taken by him to ensure compliance with the Regulations; or
- (b) he did not know nor ought to have known nor had reasonable grounds for suspecting the goods to be dangerous goods or marine pollutants as the case may be; or
- (c) that the goods were handled and carried in accordance with the provisions of the IMDG Code where appropriate; or
- (d) if the person charged is the shipowner or master, in the case of goods packed in a freight container or vehicle, that before the freight container or vehicle was taken on board the ship the person responsible for packing the goods into the freight container or vehicle had furnished the shipowner or master of the ship with a signed packing certificate certifying that the goods had been properly packed in the freight container or vehicle;
- (e) the goods being solid dangerous goods in bulk were being handled and carried in accordance with the Bulk Cargoes Code;
- (f) the goods being liquid chemical or gaseous dangerous goods in bulk such goods were being handled and carried in accordance with the relevant requirements of the BCH Code, the IBC Code, the Gas Carrier Code, the Gas Carrier Code for Existing Ships and the IGC Code;
- (g) the goods were being carried in accordance with Merchant Shipping Notices M1435, M1436 or M1437 where appropriate.

Offences due to fault of another person

20.—(1) Where the commission by any person of an offence under Parts I, II or III of these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

Signed by authority of the
Secretary of State for Transport

19th December 1990

Patrick McLoughlin
Parliamentary Under Secretary of State,
Department of Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Merchant Shipping (Dangerous Goods) Regulations 1981 as amended and re-enact those provisions subject to certain changes.

The Regulations so far as they relate to dangerous goods are made under section 21 of the Merchant Shipping Act 1979, and give effect to Chapter VII (Carriage of Dangerous Goods) of the International Convention for the Safety of Life at Sea 1974 (Cmnd. 7874) which was laid before Parliament in October 1978 and ratified by the United Kingdom in November 1979, as amended in 1981, 1983, 1988 and 1989. So far as they relate to marine pollutants the Regulations are made under the Merchant Shipping (Prevention and Control of Pollution) Order 1990 and give effect to the provisions of Annex III to the International Convention for the Prevention of Pollution from Ships signed 2nd November 1973.

The principal changes from the previous Dangerous Goods Regulations are:-

- (1) that the Regulations will cease to refer to the Blue Book (the Report of the Department of Transport Standing Advisory Committee), and will instead refer to the International Maritime Dangerous Goods Code, 1990 edition ("IMDG Code");
- (2) so far as packaged goods are concerned, the Regulations cover both dangerous goods and marine pollutants, both of which are now covered by the IMDG Code. There is an additional requirement for packaging to be in accordance with the IMDG Code;
- (3) there will be an additional requirement for shipowners to retain marine pollutant manifests and stowage plans ashore until those goods have been discharged from the ship.

The Regulations make consequential changes to the Dangerous Substances in Harbour Areas Regulations 1987.

Copies of the various Codes referred to in the Regulations are obtainable from the International Maritime Organization, 4 Albert Embankment, London SE1 7SR. Copies of the United Nations Publication entitled "Recommendations on the Safe Transport of Dangerous Goods" are obtainable from bookshops or distributors.

Amendments to the Codes referred to in the Regulations are specified by the Secretary of State in Merchant Shipping Notices. Merchant Shipping Notices are obtainable from the Department of Transport Marine Library, Sunley House, 90 High Holborn, London WC1V 6LP and from any Department of Transport Marine Office.