
STATUTORY INSTRUMENTS

1995 No. 2498

**MARINE POLLUTION
MERCHANT SHIPPING**

SAFETY

**The Merchant Shipping (Reporting Requirements for Ships
Carrying Dangerous or Polluting Goods) Regulations 1995**

Made - - - - - *21st September 1995*
Laid before Parliament *2nd October 1995*
Coming into force - - - *31st October 1995*

Whereas the Secretary of State is a Minister designated⁽¹⁾ for the purpose of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to maritime transport;

And whereas, in so far as the following Regulations are made in the exercise of powers conferred by section 21 of the Merchant Shipping Act 1979⁽³⁾, the Secretary of State has in pursuance of subsection (2) of section 22 of that Act consulted persons he considers will be affected as mentioned in that subsection:

Now, therefore, the Secretary of State for Transport, in exercise of the powers conferred by the said section 2(2) of the European Communities Act 1972, by article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987⁽⁴⁾, by article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1990⁽⁵⁾ and by sections 21(1)(a) and (b)⁽⁶⁾, (3) to (6) and 22(1) of the Merchant Shipping Act 1979 and of all other powers enabling him in that behalf, hereby makes the following Regulations—

(1) S.I.1994/757.

(2) 1972 c. 68.

(3) 1979 c. 39; section 21(6) was amended by section 49(3) the Criminal Justice Act 1982 (c. 48); sections 21 and 22 were applied to hovercraft by the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350).

(4) S.I. 1987/470, amended by S.I. 1990/2595.

(5) S.I. 1990/2595.

(6) For the purposes of section 21(1) (b) of the Merchant Shipping Act 1979, the relevant international agreement is the Safety of Life at Sea Convention, 1974, as amended.

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995, and shall come into force on 31st October 1995.

Interpretation and revocation

2.—(1) These Regulations implement (inter alia), in the United Kingdom, Council Directive (EEC) 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods (which shall for the purposes of these Regulations be known as “the Council Directive”) except to the extent that the Council Directive has already been given effect.

(2) In these Regulations, unless the context otherwise requires:

“Community port” means a port in the European Union;

“the Coastguard Agency” means the Coastguard Agency of the Department of Transport;

“dangerous goods” means goods classified as such in the IMDG Code, in Chapter 19 of the IGC-Code or in chapter 17 of the IBC-Code;

“discharge” means any release howsoever caused from a ship and includes escape, disposal, spilling, leaking, pumping, emitting and emptying;

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

“IGC Code” means the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk published by IMO;

“IMDG Code” means the 1994 edition of the International Maritime Dangerous Goods Code published by IMO;

“IMO” means the International Maritime Organisation;

“incident” means damage, failure or breakdown which affects the safety of the ship, failure or breakdown of machinery or equipment which results in impairment of the safety of navigation, including any circumstances when a vessel is “not under command”, or any circumstances at sea which have caused actual damage or poses a threat to a member State’s coastline or related interest, or any other condition which affects the safety of any vessel or persons or which has or may cause damage or discharge into the marine environment;

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

“infectious substances” means any substances classified as Class 6.2 in the IMDG Code;

“in packaged form” means in an individual package or receptacle including a freight container or a portable tank or tank container or tank vehicle or shipborne barge or other cargo unit;

“MARPOL” means the International Convention for the Prevention of Pollution from Ships, 1973 and its 1978 Protocol, as amended, as in force on 13th September 1993;

“Merchant Shipping Notice” means a Notice described as such, issued by the Marine Safety Agency of the Department of Transport, and includes a reference to any document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“operator”, in relation to a ship, includes any owner, manager, charterer or agent of the ship;

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

“polluting goods” means:

- oil as defined in MARPOL Annex I;
- noxious liquid substances as defined in MARPOL Annex II;
- harmful substances as defined in MARPOL Annex III;

“radioactive materials” means any substance of Class 7 of the IMDG Code;

“ship” includes a vessel of any type whatsoever operating in the marine environment or in other waters navigable by sea-going vessels and (without prejudice to the generality of the foregoing) includes submersible craft, floating craft, a structure which is a fixed or floating platform, and hovercraft;

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

“SOLAS” means the Safety of Life at Sea Convention 1974, and its 1978 Protocol, as amended, as in force on 13th September 1993;

“United Kingdom ship” means a ship which —

- (a) is registered under the Merchant Shipping (Registration, etc.) Act 1993(7); or
- (b) is registered under the Hovercraft Act 1968(8); or
- (c) is a Government ship, within the meaning of section 80(3) of the Merchant Shipping Act 1906(9);
- (d) is not registered under the law of any other country but is wholly owned by persons each of whom is —
 - (i) a British citizen, a British Dependent Territories citizen or a British Overseas citizen, or
 - (ii) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.

(3) Any reference in these Regulations to the IBC Code, the IGC Code or the IMDG Code, or MARPOL or SOLAS, shall include a reference to any document amending it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice.

(4) The following are hereby revoked:

- (a) The Merchant Shipping (Tankers) (EEC Requirements) Regulations 1981(10);
- (b) The Merchant Shipping (Tankers) (EEC Requirements) (Amendment) Regulations 1982(11); and
- (c) The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1994(12).

Application

3.—(1) Subject to paragraph (2) below 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.

(2) Regulations 9 to 11 also apply to a ship which —

- (a) is not a United Kingdom ship;

(7) 1993 c. 22.

(8) 1968 c.

(9) 1906 c. 48.

(10) S.I. 1981/1077, amended by S.I. 1982/1637.

(11) S.I. 1982/1637.

(12) S.I. 1994/3245.

- (b) is outside the United Kingdom and the territorial sea thereof; and
- (c) is involved in an incident or circumstance at sea mentioned in paragraph (1)(d) of regulation 9.

(3) These Regulations do not apply to warships and other ships for the time being used by the government of any State for non-commercial purposes.

(4) Bunkers, stores and equipment for use on board a ship shall not be regarded as dangerous or polluting goods for the purpose of these Regulations.

Competent authority

4.—(1) The Coastguard Agency is designated as the competent authority for the United Kingdom for the purposes of the Council Directive and these Regulations.

(2) In these Regulations in relation to any other member State the “competent authority” means any authority designated as such in relation to the matter in the member State in conformity with article 3 of the Council Directive.

(3) In these Regulations in relation to any other State “competent authority” means any authority designated as such by the State in relation to a purpose of these Regulations, or, if none, the State in question.

Notification by ships carrying dangerous or polluting goods

- (a) 5. (1) (a) Subject to paragraph (3) below, the operator of a ship carrying dangerous goods or polluting goods shall before its departure from a port in the United Kingdom notify all information listed in Schedule 1 to Merchant Shipping Notice M 1630 to the competent authority in accordance with the Notice.
- (b) The operator of a United Kingdom ship before leaving a Community port outside the United Kingdom carrying dangerous or polluting goods shall notify all information listed in Schedule 1 to Merchant Shipping Notice M 1630 to the competent authority of the State in which the port is situated.
- (c) (i) The operator of a United Kingdom ship shall, before leaving a port outside the European Community carrying goods classified as dangerous or polluting in the IMDG Code arrange for a copy of the information listed in Schedule 1 to the said Notice to be kept on shore, and it shall be the duty of the operator to retain it there until the goods are discharged from the ship or for a period of six months from loading whichever period is shorter.
(ii) It shall be the duty of the operator to furnish on demand to the competent authority of the State in which the port is situated that information.

(2) Without prejudice to the requirement in paragraph (1), the shipper shall give prior notification of each shipment of radioactive materials in accordance with the requirements in the IMDG Code for Class 7 goods.

(3) Paragraph (1) above shall not apply to any ship engaged on a regular scheduled service of less than 1 hour’s sailing which the Secretary of State has exempted (or on such a service of such longer period as the Secretary of State with the consent of the Commission of the European Community may allow), in accordance with Merchant Shipping Notice M 1630.

Notification to the State of destination or anchorage

6.—(1) This Regulation applies to a ship carrying dangerous or polluting goods which is coming from a port not located in a member State, and which is

- (a) a United Kingdom ship bound for a port or anchorage located in any member State or in the territorial seas of a member state; or
- (b) a non-United Kingdom ship bound for a port or anchorage located in the United Kingdom or in the territorial seas thereof.

(2) A ship referred to in sub-paragraph (a) of paragraph (1) above shall not enter a port or use an anchorage in a member State, or in the case of a ship referred to in sub-paragraph (b) shall not enter a port or use an anchorage in the United Kingdom or its territorial seas, unless the operator has, on or before departure of the ship from the port of loading or, in respect of several loading ports, on or before departure from the last such port, notified all the information listed in Schedule 1 of Merchant Shipping Notice M 1630 to the competent authority in which the port of destination or anchorage is located, or (if there is more than one such port or anchorage of destination in one or more member States) to the competent authority of the member State in which the first such port or anchorage is located. For the United Kingdom notifications shall be made in accordance with the Merchant Shipping Notice M 1630.

Vessel Traffic Services

7. The master of a ship entering or leaving a port in the United Kingdom shall make use of any Vessel Traffic Services provided in that port.

Incidents involving infectious substances

8. In the event of damage or leakage to a package containing infectious substances, the master shall report the incident by the fastest telecommunication channel available in accordance with the requirements in the IMDG Code for Class 6.2 goods.

Reporting of incidents

- 9.—(1) The master of a ship involved in an incident or circumstance at sea involving:
- (a) an actual or probable discharge of oil, or a noxious liquid substance carried in bulk resulting or likely to result from damage to the ship or its equipment, or discharge made or likely to be made for the purpose of securing the safety of a ship or saving life at sea; or
 - (b) an actual or probable discharge of dangerous or polluting goods in packaged form from the ship; or
 - (c) an actual discharge during the operation of the ship of oil or a noxious liquid substance in excess of the quantity or instantaneous rate permitted under the relevant provisions of the Merchant Shipping (Prevention of Oil Pollution) Regulations 1983⁽¹³⁾ or of the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987⁽¹⁴⁾; or
 - (d) without prejudice to sub-paragraphs (a) to (c) above, a threat of damage to the coastline or related interests of the United Kingdom,

shall (subject to paragraph (2) below) report the particulars of such an incident without delay and to the fullest extent possible together with the information specified in Schedule 1 to Merchant Shipping Notice No. M 1630, in accordance with paragraph (4) below and regulation 11:

- (2) Where:
- (i) the State concerned is the United Kingdom (and the competent authority is the Coastguard Agency) ; and

⁽¹³⁾ S.I. 1983/1398; relevant amendment is S.I. 1993/1680.

⁽¹⁴⁾ S.I. 1987/551, relevant amendments are S.I. 1990/2604, and S.I. 1994/2083.

(ii) the information specified in the said Schedule 1 is already held by the competent authority of another member State;

the requirement in paragraph (1) above to report the information specified in the said Schedule 1 may be satisfied by the master's informing the Coastguard Agency which other competent authority of a member State holds the information.

(3) In the event of a report from the master of such a ship being incomplete or unobtainable, the operator shall, to the fullest extent practicable, make or complete the report required by paragraph (1).

- (a) (4) (a) A report under paragraph (1) above or, if there is more than one, the initial report, shall as to form and content comply with the standard reporting requirements.
- (b) In this paragraph, "the standard reporting requirements" means the requirements stated in:
- (i) part 2 (Standard Reporting Format and Procedures); or
 - (ii) sections 3.1, 3.2 and 3.3 of part 3 (Guidelines for Detailed Reporting Requirements);
- of the Appendix to the Annex to Resolution A. 648 (16) adopted by the Assembly of the International Maritime Organisation on 19th October 1989.

Supplementary reports

10. Any person required under regulation 9(1) or (4) to make a report shall—

- (a) make such a supplementary report, or reports, as may be appropriate in the circumstances —
 - (i) supplementing the information contained in the initial report as necessary; and
 - (ii) complying as fully as possible with any request for additional information made by or on behalf of the government of a State whose interests may be affected by the incident;
- (b) comply as fully as possible with any request for additional information made by or on behalf of the government of a State whose interests may be affected by the incident.

Reporting procedures

11. A report under regulation 9 shall be made by the fastest telecommunications channels available with the highest possible priority:

- (a) where the incident or threat is to the coastline or to a related interest of the United Kingdom, to a maritime rescue centre of the Coastguard Agency;
- (b) in any other case, to the competent authority of the nearest coastal state.

Master to supply information to pilots

12.—(1) The master of a ship shall before navigating in a port in the United Kingdom and, in the case of a United Kingdom ship, in a port in another member of State of the European Economic Community complete a check list in respect of the ship in the form set out in Schedule 2 to Merchant Shipping Notice No. M 1630.

- (2) The master shall make the completed check list available to:
- (a) any pilot boarding the ship to pilot it within the port, and
 - (b) if it so requests, the competent authority;
 - (c) and to any other person specified by the competent authority.

Duties of pilots

13.—(1) If a pilot engaged in berthing, unberthing or manoeuvring a ship in United Kingdom waters learns that there are deficiencies in the ship which may prejudice the safe navigation of the ship, he shall immediately inform the port authority, who shall immediately inform the Coastguard Agency.

(2) In this and the following regulation “port authority” means a harbour authority within the meaning of the Harbours Act 1964⁽¹⁵⁾, or in Northern Ireland, of the Harbours Act (Northern Ireland) 1970⁽¹⁶⁾, or if there is no such authority, the person having control of the operation of the port.

14.—(1) If any pilot, having boarded a ship to which these Regulations apply to pilot it into or out of a port, knows or believes that there are defects which may prejudice the safe navigation of the ship which have not been notified to the port authority in accordance with regulation 12 or 13 he shall notify the master of those defects. If the pilot knows or believes that the master, having been notified by the pilot of those defects, has failed to notify the port authority, the pilot shall forthwith notify the port authority of those defects.

(2) If the master of a ship to which these Regulations apply fails to make a check list available to the pilot in accordance with regulation 12 above, the pilot shall forthwith notify the port authority.

Offences

15.—(1) If there is any contravention of regulation 5(1), 6 or 9(3) or 10 so far as it relates to 9(4) in respect of a ship the operator of that ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(2) Any operator who in purported compliance with regulation 5(1), 6 or 9(3) makes a notification or report which he knows to be false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum, or on conviction on indictment to a fine.

(3) If the master of a ship contravenes regulation 5(1), 7, 8, 9(1) or (4), 10 so far as it relates to 9(1) or (4), or 12 he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding the statutory maximum, or on conviction on indictment to a fine.

(4) Any master who —

- (a) in purported compliance with regulation 5(1) makes a notification; or
- (b) in purported compliance with regulation 8 or 9 makes a notification; or
- (c) in purported compliance with regulation 12 makes available a check list,

which he knows to be false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum.

(5) If a pilot contravenes the provisions of regulation 13 or 14 above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) It shall be a good defence to a charge under this regulation to prove that the person charged took all reasonable steps to avoid committing the offence.

16. Where an offence under these Regulations is committed, or would have been committed except for the operation of regulation 15(6), by any person 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.

⁽¹⁵⁾ 1964 c. 40.

⁽¹⁶⁾ 1970 c. 1 (N.I.).

Inspection and detention of ships

17. Any person duly authorised by the Secretary of State may inspect any ship to which these Regulations apply and, if he is satisfied that there is a failure to comply in relation to that ship with relation to the requirements of regulation 5 of these Regulations, he may detain the ship until such requirements are met.

18. Where a ship is liable to be detained under these Regulations, section 692 of the Merchant Shipping Act 1894⁽¹⁷⁾ (which relates to the detention of ships) shall have effect in relation to the ships as if for the words “this Act” whenever they appear, there were substituted the words “The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995.”.

Duties of the Coastguard Agency

19.—(1) The Coastguard Agency shall, as necessary, broadcast within the relevant areas information about any incident notified under regulation 9(1) and information with regard to any vessel which poses a threat to other shipping.

(2) The Coastguard Agency shall provide the information notified to it pursuant to regulations 5 and 6 at any time upon request for safety reasons by the authority of another member State.

Signed by authority of the Secretary of State for Transport

21st September 1995

Goschen
Parliamentary Under Secretary of State,
Department of Transport

(17) 1894 c. 60; section 692 was amended by the Merchant Shipping Act 1979, Schedule 6, Part VII, paragraph 10, and by the Merchant Shipping Act 1988, Schedule 6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement (inter alia) Council Directive No. [93/75/EEC](#) relating to vessels bound for or leaving community ports and carrying dangerous or polluting goods. They are intended to ensure that member States will have ready access to information about any dangerous or polluting goods aboard ships bound for or leaving their ports. Earlier and more limited EC requirements on reporting contained in the Merchant Shipping (Tankers) (EEC Requirements) Regulations 1981 as amended, are revoked.

The Regulations also revoke and re-enact the Merchant Shipping (Reporting Requirements For Ships Carrying Dangerous or Polluting Goods) Regulations 1994, which implemented similar requirements in the Safety of Life at Sea Convention 1974 (SOLAS), as amended, and the Convention for the Prevention of Pollution from Ships 1973 (MARPOL), as amended.

They require the operator of a ship departing from a port to inform the competent authority of that port about the nature, quantity and location of any dangerous goods aboard, its destination and intended route (regulation 5). Ferries on short sea voyages of less than one hour are exempt from this requirement, provided that the operator of the ferry can supply this information to the competent authority immediately on request (regulation 5(3)). For a ship departing from a port outside the Community and bound for a Community port, this information is also required to be lodged with the competent authority of the member State of the first port of call within the Community (regulation 6).

The Coastguard Agency of the Department of Transport, is designated as the competent authority for the United Kingdom (regulation 4).

The Regulations also require masters to provide details of the ship, its equipment, crew and survey certificates to a pilot, or the competent authority on demand (regulation 12).

If a ship finds itself in difficulty, or is involved in an incident which is likely to pose a threat to any member State's coastline or related interests the master is immediately required to provide information about the cargo aboard to the competent authority of the State concerned (regulations 9 (1) (d), (3) and (4) and 10 and 11).

These Regulations also implement the requirements in SOLAS and MARPOL to report the loss or likely loss of dangerous and polluting goods to the nearest coastal state wherever such incidents occur (regulations 9 (1) (a)-(c), (3) and (4) and 10 and 11). The Regulations permit the master to discharge this obligation by indicating which competent authority in the Community holds the information (regulation 9 (2)).

A compliance cost assessment has been prepared and is available from the Marine Safety Agency, Department of Transport, Spring Place, 105 Commercial Road, Southampton SO1 OZD. A copy has been placed in the Library of each House of Parliament.

Copies of the IBC, IGC and IMDG Codes, and of MARPOL and SOLAS and amendments are obtainable from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR. Merchant Shipping Notices are obtainable from the Marine Safety Agency Spring Place, 105 Commercial Road, Southampton SO15 1EG, and from any Marine Office of the Marine Safety Agency.