

1999 No. 2121

MARINE POLLUTION

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Reporting Requirements for Ships
carrying Dangerous or Polluting Goods) (Amendment)
Regulations 1999**

<i>Made</i> - - - -	<i>26th July 1999</i>
<i>Laid before Parliament</i>	<i>3rd August 1999</i>
<i>Coming into force</i>	<i>1st September 1999</i>

The Secretary of State for the Environment, Transport and the Regions, being a Minister designated **(a)** for the purposes of section 2(2) of the European Communities Act 1972 **(b)** in relation to measures relating to maritime transport, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995 **(c)** in so far as the following Regulations are made in exercise of the powers conferred by section 85 of that Act **(d)**, in exercise of the powers conferred by:—

- (i) the said section 2(2) of the European Communities Act 1972,
- (ii) sections 85(1)(a) and (b), (3) and (7) and 86(1) of the Merchant Shipping Act 1995,
- (iii) article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987 **(e)**,
- (iv) article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1990 **(f)**,
- (v) article 2 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996 **(g)**,

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Reporting Requirements for Ships carrying Dangerous or Polluting Goods) (Amendment) Regulations 1999 and shall come into force on 1st September 1999.

(a) S.I. 1994/757.

(b) 1972 c. 68.

(c) 1995 c. 21.

(d) Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8.

(e) S.I. 1987/470, amended by S.I. 1990/2595 and S.I. 1997/2569.

(f) S.I. 1990/2595.

(g) S.I. 1996/282.

(2) In these Regulations “the principal Regulations” means the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995(a).

Amendment of regulation 2 (Interpretation and revocation)

2.—(1) Regulation 2(1) of the principal Regulations shall be amended by the insertion after the words “polluting goods” of the words “as amended by Council Directive 98/55/EC(b)”.

(2) Regulation 2(2) of the principal Regulations shall be amended as set out in paragraphs (3) to (9) of this Regulation.

(3) In the definition of “dangerous goods”, after the words “IMDG Code” there shall be added the words “including radioactive materials as referred to in the INF Code”.

(4) In the definition of “discharge” after the words “emitting and emptying” there shall be added the words “but does not include release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources”.

(5) In the definition of “Merchant Shipping Notice” for the words “Marine Safety Agency of the Department of Transport” there shall be substituted the words “Secretary of State”.

(6) For the definition of “polluting goods” there shall be substituted the following definition:

“ “polluting goods” means:

- oil as defined in MARPOL Annex I, excluding the bunkers and ship’s stores;
- noxious liquid substances;
- harmful substances in packaged form;”.

(7) The definition of “radioactive materials” shall be deleted.

(8) In the definition of the word “ship” the words “a structure which is a fixed or floating platform” shall be omitted.

(9) The following definitions shall be inserted:

“ “controlled waters” means the waters specified as areas within which the jurisdiction and rights of the United Kingdom are exercisable by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996(c);”

“ “harmful substances in packaged form” has the meaning given by MARPOL Annex III;”

“ “installation” means any drilling or production platform or any other platform used in connection with the exploration, exploitation or associated offshore processing of seabed mineral resources;”

“ “INF Code” means the IMO code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships, including amendments adopted on or before 1st January 1998;”

“ “noxious liquid substances” has the meaning given to it by the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996(d);”

“ “permitted level” means the quantity or instantaneous rate permitted under the relevant provisions of the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996(e) or the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996;”.

(10) Regulation 2(3) of the principal Regulations shall be amended by the insertion after the words “the IGC Code” of the words “, the INF Code”.

(a) S.I. 1995/2498.

(b) O.J. L215, 1.8.98, p. 65.

(c) S.I. 1996/2128, amended by S.I. 1997/506.

(d) S.I. 1996/3010, to which there are amendments not relevant to these Regulations.

(e) S.I. 1996/2154.

Amendment of regulation 3 (Application)

3. In regulation 3 of the principal Regulations:
- (a) in paragraph (2)(c), for “(1)(d)” there shall be substituted “(1)(e)”,
 - (b) in paragraph (4), the word “Bunkers,” shall be omitted, and
 - (c) after paragraph (4) the following paragraphs shall be added:
 - “(5) Regulations 9 to 11 apply to any fixed or floating installation on location in controlled waters, and in the application of regulations 9 to 11 to those installations–
 - (a) references to a ship shall be taken to include reference to an installation;
 - (b) references to a master of a ship shall be taken to include references to an installation manager, and
 - (c) references to an operator of a ship shall be taken to include references to an owner of an installation.
 - (6) These Regulations, other than regulations 9 to 11, apply to any fixed or floating installation other than an installation on location in controlled waters as they would apply if that installation were a ship.”.

Amendment of regulation 5 (notification by ships carrying dangerous or polluting goods)

4. In regulation 5 of the principal Regulations:
- (a) in paragraph (1)(a) and (b) for the words “M 1630” there shall be substituted the words “MSN 1741 (M)”,
 - (b) for paragraph (1)(c) there shall be substituted the following paragraph:
 - “(c) The operator of a United Kingdom ship shall, before leaving a port outside the European Community carrying dangerous goods or harmful substances in packaged form, comply with the requirements set out in paragraphs 7.2 and 7.3 of Merchant Shipping Notice MSN 1741 (M).”, and
 - (c) in paragraph (2), for the words after “radioactive materials” there shall be inserted the words “as classified in the IMDG Code for Class 7 goods in accordance with the requirements of that Code.”.

Amendment of regulation 6 (Notification to the State of destination or anchorage)

5. In regulation 6(2) of the principal Regulations, for the words “M 1630” there shall be substituted the words “MSN 1741 (M)”.

Amendment of regulation 9 (Reporting of incidents)

6. In regulation 9 of the principal Regulations:
- (a) for paragraph (1) there shall be substituted the following paragraph:
 - “9.—(1) The master of a ship involved in an incident or circumstance at sea involving–
 - (a) a discharge of oil or noxious liquid substances above the permitted level, or the probability of a discharge of oil or noxious liquid substances, for whatever reason including those for the purpose of securing the safety of the ship or for saving life at sea;
 - (b) a discharge of dangerous goods or harmful substances in packaged form, or the probability of such a discharge, including those in freight containers, portable tanks, road and rail vehicles and shipborne barges;
 - (c) any damage, failure or breakdown of a ship of 15 metres in length or above which–
 - (i) affects the safety of the ship, such as collision, grounding, fire, explosion, structural failure, flooding or cargo shifting; or
 - (ii) impairs the safety of navigation, such as failure or breakdown of steering gear, propulsion plant, electrical generating system or essential shipborne navigational aids;

- (d) a discharge during the operation of the ship of oil or noxious liquid substances in excess of the permitted level; or
- (e) without prejudice to sub-paragraphs (a) to (d) 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 the Merchant Shipping Notice MSN 1741 (M), in accordance with paragraph (4) below and regulation 11.", and

(b) in paragraph (4)(b):

- (i) for the words "Resolution A.648(16)" there shall be substituted the words "Resolution A.851(20)"; and
- (ii) for the date "19th October 1989" there shall be substituted the date "27th November 1997".

Amendment of regulation 12 (Master to supply information to pilots)

7. In regulation 12(1) of the principal Regulations, for the words "M 1630" there shall be substituted the words "MSN 1741 (M)".

Amendment of regulation 15 (Offences)

8. In regulation 15 of the principal Regulations:

- (a) in paragraph (3), "5(1)," shall be omitted,
- (b) sub-paragraph (4)(a) shall be omitted, and
- (c) after paragraph (4) there shall be inserted the following paragraphs:

"(4A) If in respect of a fixed or floating installation—

- (a) there is any contravention of regulation 9(3) or of regulation 10 in so far as it relates to regulation 9(4); or
- (b) the owner in purported compliance with regulation 9(3) makes a notification or report which he knows to be false in a material particular,

the owner of the installation 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.

(4B) If in respect of a fixed or floating installation, the installation manager—

- (a) contravenes regulation 9(1) or (4) or regulation 10 in so far as it relates to regulation 9(1) or (4) 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; or
- (b) in purported compliance with regulation 9, makes a notification which he knows to be false in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum."

Signed by authority of the Secretary of State for
the Environment, Transport and Regions

Glenda Jackson
Parliamentary Under-Secretary of State,
Department of the Environment,
Transport and the Regions

26th July 1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Merchant Shipping (Reporting Requirements for Ships carrying Dangerous or Polluting Goods) Regulations 1995 (“the principal Regulations”).

The principal Regulations implement (inter alia) Council Directive 93/75/EEC relating to vessels bound for or leaving Community ports and carrying dangerous or polluting goods. That Directive has been amended by Council Directive 98/55/EC (O.J. L215, 1.8.98, p. 65). These Regulations implement that amending Directive by amending certain of the definitions in regulation 2(2) of the principal Regulations (*regulation 2*) and by incorporating in the principal Regulations references to a revised Merchant Shipping Notice (*regulations 4 to 7*).

The principal Regulations also implement Protocol 1 to the Convention for the Prevention of Pollution from Ships 1973 (MARPOL) and Chapter VII, regulation 7 – 1 of the International Convention for the Safety of Life at Sea 1974 (SOLAS), which make provision concerning reports on incidents involving harmful substances. Protocol 1 of MARPOL was amended by the Marine Environment Protection Committee Resolution MEPC.68(38) adopted on 10th July 1996. In addition to drafting amendments, including amendments to clarify the application of the Regulations to fixed and floating installations, these Regulations implement this amendment by amending regulation 9 of the principal Regulations, in particular by requiring a report to be made in certain circumstances involving damage, failure or breakdown of a ship of 15 metres in length or above (*regulation 6*).

Section 2(2) of the European Communities Act 1972 is cited as an enabling power in relation to regulation 6, which re-enacts regulation 9(1)(d) of the principal Regulations.

Regulation 15 of the principal Regulations, which makes provision as to offences, is amended to remove references to the master in connection with contraventions of and false notifications under regulation 5(1) of the Regulations and to clarify the application of this regulation with regard to installations (*regulation 8*).

A Regulatory Impact Assessment has been produced and a copy laid in the library of each House of Parliament. Copies can be obtained from the Department of the Environment, Transport and the Regions, Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone number 0171 890 5424).

Merchant Shipping Notices may be obtained from Eros Marketing Support Services, Delta House, Imber Court Trading Estate, Orchard Lane, East Molesey, Surrey KT8 0BN (telephone number 0181 957 5028). Copies of the IMDG and INF Codes and of MARPOL and amendments thereto may be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.

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