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STATUTORY INSTRUMENTS

2005 No. 1092

MERCHANT SHIPPING

The Merchant Shipping (Amendments to Reporting Requirements) Regulations 2005

<i>Made</i>	- - - -	<i>4th April 2005</i>
<i>Laid before Parliament</i>		<i>5th April 2005</i>
<i>Coming into force</i>	- -	<i>27th April 2005</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to matters relating to the safety of ships and the safety of persons on them and to maritime transport(2):

The Secretary of State, in so far as the following Regulations are made in exercise of the powers conferred upon him by section 85 of the Merchant Shipping Act 1995(3) has consulted with the persons referred to in section 86(4) of that Act:

The Secretary of State, in exercise of the powers conferred upon him by 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), by article 2 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996(6) and by sections 85 and 86 of the Merchant Shipping Act 1995, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Amendments to Reporting Requirements) Regulations 2005 and shall come into force on 27th April 2005.

(1) 1972 c. 68

(2) S.I. 1993/595 and S.I. 1994/757.

(3) 1995 c. 21.

(4) S.I. 1987/470, amended by S.I. 1990/2595, S.I. 1997/2569 and S.I. 1998/254.

(5) S.I. 1990/2595.

(6) S.I. 1996/282. [DfT 13519]

Interpretation

2. In these Regulations—

“the 1995 Regulations” means the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995⁽⁷⁾; and

“the 2004 Regulations” means the Merchant Shipping (Vessel Traffic Monitoring and Reporting) Requirements Regulations 2004⁽⁸⁾.

Amendments to the 1995 Regulations

3.—(1) Regulation 2(2) of the 1995 Regulations is amended as follows.

(2) The definition of “controlled waters” shall be deleted.

(3) In the definition of “incident” the words “or poses a threat to a member State’s coastline or related interest,” shall be deleted.

(4) In the definition of “MARPOL” the words “as in force on 13th September 1993” shall be deleted.

(5) For the definition of “noxious liquid substances” there shall be substituted the following—
““noxious liquid substances” has the meaning given to it in MARPOL Annex II;”.

(6) After the definition of “noxious liquid substances” there shall be inserted the following—
““oil” means any oil, oily mixture, oil fuel or crude oil as these terms are defined in MARPOL Annex I;”.

(7) In the definition of “polluting goods” the words “as defined in MARPOL Annex I, excluding the bunkers and ship’s stores” shall be deleted.

(8) After the definition of “polluting goods” there shall be inserted the following—
““pollution event” means a discharge, or threat of discharge, of polluting goods into the sea;”.

(9) After the definition of “ship” there shall be inserted the following—
““traditional ship” means an historical ship or a replica of an historical ship operated according to traditional principles of seamanship and technique, and for the purposes of this definition, a replica of an historical ship includes such replica designed to encourage and promote traditional skills and seamanship.”.

4.—(1) For regulation 3 of the 1995 Regulations there shall be substituted the following—

“**3.—(1)** Subject to the provisions of this regulation, these Regulations apply to United Kingdom ships wherever they may be and to other ships while they are within the United Kingdom or in specified waters.

(2) Unless otherwise stated, these Regulations do not apply to ships of 300 gross tonnage or more.

(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) Regulations 9 to 11 also apply to the following ships of 300 gross tonnage or more—

- (a) fishing vessels;
- (b) traditional ships; and
- (c) recreational craft having a length of less than 45 metres.

(7) S.I. 1995/2498 amended by S.I. 1999/2121, S.I. 2001/1638 and S.I. 2004/2110.

(8) S.I. 2004/2110

(5) Regulations 9 to 11 also apply, in relation to a ship, to bunkers of less than 5,000 tonnes for use on board that ship.

(6) Regulations 9 to 11 apply to any fixed or floating installation on location in controlled waters, and when applying regulations 9 to 11 to those installations references—

- (a) to a ship shall be taken to include a reference to an installation;
- (b) to a master of a ship shall be taken to include references to an installation manager; and
- (c) to an operator of a ship shall be taken to include references to an owner of an installation.

(7) 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.

(8) Regulations 9 to 11 also apply to a ship irrespective of size which—

- (a) is not a United Kingdom ship;
- (b) is outside the United Kingdom and the controlled waters; and
- (c) is involved in an incident or circumstances at sea mentioned in paragraph (1)(e) of regulation 9.

(9) For the purposes of regulation 5, in relation to a ship, bunkers, stores and equipment for use on board that ship shall not be regarded as dangerous goods or harmful substances in packaged form.

(10) In this regulation—

- (a) “length” in relation to a recreational craft, means either—
 - (i) 96% of the total length of the craft on a waterline at 85% of the least moulded depth measured from the keel line; or
 - (ii) the length from the foreside of the stem to the axis of the rudder stock on that waterline,

whichever is the greater, and where the craft in question is designed with rake of keel, the waterline on which the lengths referred to in (i) and (ii) are measured shall be parallel to the designed waterline;

- (b) “controlled waters” means the areas of sea specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996⁽⁹⁾ as areas within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of the United Nations Convention on the Law of the Sea⁽¹⁰⁾ for the protection and preservation of the marine environment;
- (c) “specified waters” means the territorial waters of the United Kingdom, except in relation to pollution events when it shall mean the territorial waters of the United Kingdom and controlled waters.”

5. The heading to regulation 5 shall be—

“Requirements for ships carrying dangerous or harmful substances in packaged form”

6.—(1) Regulation 9 shall be amended as follows.

(2) Before the word “length” in paragraph (1)(c) there shall be added the word “overall”.

⁽⁹⁾ S.I. 1996/2128 as amended by S.I. 1997/506.

⁽¹⁰⁾ Cmnd 8941

Amendments to the 2004 Regulations

7.—(1) Regulation 4 of the 2004 Regulations is amended as follows.

- (2) In paragraph (2) the words “Subject to paragraph (5)” shall be deleted.
- (3) In paragraph (3) the words “subject to paragraph (5)(d)” shall be deleted.
- (4) Paragraph (5) shall be deleted.

8.—(1) Regulation 12 shall be amended as follows.

(2) For paragraph (1) there shall be substituted the following—

“(1) When a ship is involved in—

- (a) an accident;
- (b) an incident;
- (c) a discharge or probable discharge specified in paragraph (9A); or
- (d) a pollution event likely to result in the pollution of United Kingdom waters or the coastline of the United Kingdom,

in controlled waters, the master of that ship shall immediately send to Her Majesty’s Coastguard responsible for the area in which it occurred by the quickest means possible a report containing the information specified in paragraph (3).”

(3) For paragraph (5) there shall be substituted the following—

“(5) When a United Kingdom ship is involved in—

- (a) an accident;
- (b) an incident;
- (c) a discharge or probable discharge specified in paragraph (9A); or
- (d) a pollution event,

outside controlled waters, the master of that ship shall report without delay the particulars of the accident, incident, discharge or probable discharge or pollution event as the case may be, to the fullest extent possible together with the information specified in paragraph (9) in accordance with paragraph (6).”

(4) After paragraph (9) there shall be added—

“(9A) The discharge or probable discharge referred to in paragraphs (1)(c) and (5)(c) are the discharge or probable discharge of polluting goods, other than any marine pollutant identified in the IMDG Code, above the permitted level, for whatever reason including for the purpose of securing the safety of the ship or for saving life at sea.”

(5) After paragraph (10)(c) there shall be added—

“(ca) “permitted level” means the quantity or instantaneous rate permitted under the relevant provisions of the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996⁽¹¹⁾ or the Merchant Shipping (Dangerous or Noxious Substances in Bulk) Regulations 1996⁽¹²⁾ as the case may be;”

⁽¹¹⁾ S.I. 1996/2154, amended by S.I. 1997/1957, 2000/483, 2004/303 and 2004/2110.

⁽¹²⁾ S.I. 1996/3010 amended by S.I. 1998/1153 and 2004/930.

Signed by authority of the Secretary of State for Transport

4th April 2005

David Jamieson
Parliamentary Under Secretary of State
Department for Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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 (S.I. [1995/2498](#)) (the “1995 Regulations”) and the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004 (S.I. [2004/2110](#)) (the “2004 Regulations”).

The effect of the amendments is to remove reporting requirements contained in regulation 12 of the 2004 Regulations from fishing vessels, traditional ships, recreational craft having a length of less than 45 metres and bunkers of less than 5000 tonnes for use on board ships (*regulation 7*).

The reporting requirement in regulations 9 to 11 of the 1995 Regulations are extended to include ships of over 300 gross tonnage where those ships are:–

- (a) fishing vessels;
- (b) traditional ships; and
- (c) recreational craft having a length of less than 45 metres.

Regulations 9 to 11 also apply to bunkers of less than 5000 tonnes for use on board the ship on which they are carried where that ship is 300 gross tonnage or more.

The changes are made to the 2004 Regulations primarily so that the 1995 Regulations continue to give effect to reporting obligations contained in the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 relating thereto (the MARPOL Convention) and in the International Convention for the Safety of Life at Sea 1974 (the SOLAS Convention) relating to the notification of dangerous and polluting goods and the reporting of incidents and accidents at sea for those ships (*regulations 3 and 4*).

The Regulations also amend the requirements for making a report under the 2004 Regulations. A report is now also required when a discharge of oil or a liquid noxious substance takes place above the levels permitted by the MARPOL Convention (*regulation 8*).

The MARPOL Convention and the SOLAS Convention may be obtained from the International Maritime Organization, 4 Albert Embankment, London SW1 7SR.

A regulatory impact assessment of the effect which this instrument will have on the costs of business has been prepared and copies can be obtained from the Maritime and Coastguard Agency, Spring Place, 105, Commercial Road, Southampton, SO15 1EG. A copy has been placed in each House of Parliament.