
STATUTORY INSTRUMENTS

1987 No. 37

The Dangerous Substances in Harbour Areas Regulations 1987

PART I

INTERPRETATION AND APPLICATION

Citation and commencement

1. These Regulations may be cited as the Dangerous Substances in Harbour Areas Regulations 1987 and shall come into force on 1st June 1987.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“approved list” means the list described in regulation 4 of the Classification, Packaging and Labelling of Dangerous Substances Regulations 1984(1);

“barge” includes any lighter or similar vessel whether self-propelled or not;

“berth” means any dock, pier, jetty, quay, wharf or similar structure (whether floating or not) or buoy berth in each case within a harbour or harbour area, at which a vessel may tie up, and—

(a) includes any plant or premises, other than a vessel, used for purposes ancillary or incidental to the loading or unloading of a dangerous substance within the curtilage of that berth, but

(b) does not include a monobuoy or in regulations 18, 21(6) and 27(1) any other buoy berth;

“classification” where the reference is to the classification of a dangerous substance means either—

(a) the classification for the purposes of—

(i) the Merchant Shipping (Dangerous Goods) Regulations 1981(2), or

(ii) the Classification, Packaging and Labelling of Dangerous Substances Regulations 1984 in relation to substances which are dangerous for conveyance within the meaning of those Regulations; or

(b) the classification specified in column 2 of Part I of Schedule 1 to these Regulations corresponding to the most hazardous of the characteristic properties of that substance specified in column 1 of that Part;

“Compatibility Group” and “Compatibility Group letter” have the same meaning as in regulation 2(1) of the Classification and Labelling of Explosives Regulations 1983(3);

“consignor” means the original consignor;

“dangerous substance” means a substance or article described in regulation 3;

(1) S.I. 1984/1244, amended by S.I. 1986/1922.

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

(3) S.I. 1983/1140.

“Division” and “Division number” have the same meaning as in regulation 2(1) of the Classification and Labelling of Explosives Regulations 1983;

“dumb craft” means a vessel not possessing mechanical means of propulsion and includes a dumb barge and a dracone;

“explosive” means in relation to an article or substance which falls within regulation 3, either goods of Class 1 in the IMDG Code or explosives of Class 1 in Part I of Schedule 1;

“explosives licence” means a licence issued by the Health and Safety Executive for the purposes of Part IX of these Regulations;

“freight container” means a container as defined in regulation 2(1) of the Freight Containers (Safety Convention) Regulations 1984(4) other than a container within the definition of “portable tank” in these Regulations;

“handling” in relation to a dangerous substance includes the operations of loading, unloading and transferring that substance and cleaning, purging, gas-freeing and ballasting any tank on a vessel which contains a dangerous substance or its vapour;

“harbour” means any harbour, whether natural or artificial, and any port, haven, estuary, tidal or other river, canal or inland navigation waterway navigated by sea-going vessels, in each case outside a harbour area, and includes—

- (a) a dock, wharf or other works in or at which vessels can obtain shelter, or ship and unship goods or passengers;
- (b) harbour land, being land adjacent to a harbour as defined above and occupied wholly or mainly for the purposes of activities carried on within the harbour;
- (c) a monobuoy connected to one or more storage facilities in a harbour as defined above and its monobuoy area;

“harbour area” means—

- (a) (i) all areas of water within the statutory jurisdiction of a statutory harbour authority, other than the areas of water referred to in sub-paragraph (b),
- (ii) any berth, abutting any of the areas of water falling within head (i) above, where the loading or unloading of any dangerous substance takes place (whether or not that berth is for other purposes under the statutory jurisdiction of the harbour authority),
- (iii) any land, within the statutory jurisdiction of a statutory harbour authority or occupied by a statutory harbour authority, used in connection with the loading or unloading of vessels,
- (iv) a monobuoy connected to one or more storage facilities in a harbour area as defined above and its monobuoy area,

but excluding—

- (b) areas of water which are within the statutory jurisdiction of another statutory harbour authority where those areas of water are used primarily by vessels using berths or land within the harbour area of that other statutory harbour authority (for the purpose of these Regulations the harbour area of that other statutory harbour authority is known as “an overlapping harbour area”);

“harbour authority” means—

- (a) in relation to a harbour area, the statutory harbour authority by reference to which that harbour area is defined,
- (b) in relation to a harbour, any person being, or claiming to be—

- (i) the proprietor of that harbour, or
- (ii) entrusted with the duty, or invested with the duty, or invested with the power of improving, managing, maintaining or regulating that harbour;

“harbour craft” means a self-propelled craft which is used wholly or mainly within a harbour or harbour area or within such places and on adjoining inland waterways;

“harbour master” means the harbour master, dock master or other officer duly appointed by the harbour authority to act in such capacity or any person having authority so to act;

“hazard warning panel” means the panel required by regulation 11 and specified in Schedule 5;

“hazard warning sign” means in relation to a dangerous substance, the hazard warning sign specified and coloured as in column 3 Part I of Schedule 1 for the classification of the substance specified in the corresponding entry in column 2 of that Part and which is further described in Part II of that Schedule;

“the IMDG Code” has the same meaning as in regulation 1(2) of the Merchant Shipping (Dangerous Goods) Regulations 1981;

“liquid” includes liquefied gas except in Schedule 1;

“loading” and “unloading” in relation to a dangerous substance means the actual operations of loading and unloading a vessel and includes any acts of ullaging, sounding or sampling carried out in connection with such operations and the handling of substances ancillary to such operations;

“master” includes any person, other than a pilot, having charge of a vessel;

“military explosive” has the same meaning as in regulation 2(1) of the Classification and Labelling of Explosives Regulations 1983;

“monobuoy” means a mooring buoy at which a dangerous substance may be loaded onto or unloaded from a vessel and which is connected to one or more storage facilities in a harbour or harbour area and includes the pipeline or pipelines by which it is so connected;

“monobuoy area” means the area of water surrounding a monobuoy where loading or unloading of dangerous substances takes place but does not extend to the area of water surrounding the pipeline or pipelines connected to it;

“operator” shall be construed in accordance with regulation 4;

“petroleum-spirit” means petroleum-spirit within the meaning of section 23 of the Petroleum (Consolidation) Act 1928(5);

“portable tank” means—

- (a) a portable tank with a capacity of 450 litres or more, and
- (b) a tank container and the carrying tank of a road tanker both as defined in the Dangerous Substances (Conveyance by Road in Road Tankers and Tank Containers) Regulations 1981(6);

“receptacle” includes any form of packaging used for the transport of a dangerous substance, but does not include a freight container, a portable tank or a vehicle;

“statutory harbour authority” means a “harbour authority” within the meaning of section 57 of the Harbours Act 1964(7), except that a person shall not be a statutory harbour authority for the purposes of these Regulations in respect of a harbour area which is inside the harbour area of another statutory harbour authority and which is used wholly or mainly for vessels bringing or receiving goods of either or both of the following descriptions, that is to say goods which

(5) 1928 c. 32.

(6) S.I. 1981/1059.

(7) 1964 c. 40.

have been manufactured or produced by that person or which are to be used by that person for the manufacture or production of goods or electricity, and for this purpose there shall be treated as carried on by a company the activities of manufacture or production carried on by—

- (a) a holding company or subsidiary of that company,
- (b) the members of a consortium who between them own, directly or indirectly, more than half the issued share capital of that company;

“storage tank” means a fixed tank designed for the storage of substances in bulk;

“tank barge” means a barge constructed or adapted to carry liquids in bulk;

“towing” includes the propulsion of a dumb craft by pushing;

“UN list” means Chapter 2 of the Recommendations prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods;

“vessel” means every description of vessel, however propelled or moved, and includes a hovercraft, a hydrofoil vessel, anything constructed or adapted to carry persons or goods by water and a flying boat or seaplane on or in the water.

(2) Where in these Regulations a duty is imposed upon the master of a vessel, then, in relation to a dumb craft, that duty shall be imposed—

- (a) while the dumb craft is being towed, upon the master of the towing vessel;
- (b) at any other time, upon the operator of the dumb craft.

(3) For the purpose of these Regulations a substance is—

- (a) carried by, loaded into or unloaded from a vessel in bulk if it is, without any intermediate form of containment, carried in, loaded into or unloaded from the vessel’s hold, tank or cargo space, which is a structural part of or permanently attached to the vessel;
- (b) stored in bulk if it is stored without any intermediate form of containment in a storage tank.

(4) Any reference in these Regulations to the quantity of any explosive shall be construed as a reference to the net mass of explosive substance therein contained.

(5) Unless the context otherwise required, any reference in these Regulations to—

- (a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered;
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears; and
- (c) any specified document shall operate as a reference to that document as revised or re-issued from time to time.

Meaning of “dangerous substance”

3.—(1) Subject to paragraphs (2) and (3), “dangerous substance” means any substance (including any preparation or other mixture) which by reason of its characteristic properties, being properties specified in column 1 of Part I of Schedule 1, creates a risk to the health or safety of any person when the substance is in a harbour or harbour area and includes, whether or not it would otherwise be a dangerous substance, any substance or article which is within the definition of “dangerous goods” in regulation 1(2) of the Merchant Shipping (Dangerous Goods) Regulations 1981.

(2) Nothing in paragraph (1) shall require a substance or article which is brought into a harbour or harbour area from inland and which is not or is not to be loaded onto a vessel as cargo, to be defined as a dangerous substance to which these Regulations apply, unless either—

- (a) it has characteristic properties, being properties specified in column 1 of Part I of Schedule 1, which create a risk to the health or safety of any person when the substance is in the harbour or harbour area; or
 - (b) it is “dangerous for conveyance” within the meaning of sub-paragraph (b) in the definition of “dangerous substance” in regulation 2(1) of the Classification Packaging and Labelling of Dangerous Substances Regulations 1984 as extended by regulation 3(5) of those Regulations.
- (3) The following are not dangerous substances within the meaning of these Regulations–
- (a) a substance which is intended for use as food within the meaning of section 131(1) of the Food Act 1984⁽⁸⁾ or section 58(1) of the Food and Drugs (Scotland) Act 1956⁽⁹⁾ and which if it is intended for use as an additive within the meaning of the Food Labelling Regulations 1980⁽¹⁰⁾ or the Food Labelling (Scotland) Regulations 1981⁽¹¹⁾, is intended to be supplied to the public;
 - (b) a substance which is intended for use as an animal feeding stuff within the meaning of section 66(1) of the Agriculture Act 1970⁽¹²⁾;
 - (c) a substance which is intended for use as a cosmetic product within the meaning of regulation 4(1) of the Cosmetic Products (Safety) Regulations 1984⁽¹³⁾ (including any aerosol containing a cosmetic product);
 - (d) a substance which is intended for use as–
 - (i) a medicinal product as defined in section 130 of the Medicines Act 1968⁽¹⁴⁾, or
 - (ii) a substance specified in an order made under section 104 or 105 of the Medicines Act 1968 which is for the time being in force and which directs that specified provisions of that Act shall have effect in relation to that substance as such provisions have effect in relation to medicinal products within the meaning of that Act;
 - (e) a substance which is a controlled drug within the meaning of the Misuse of Drugs Act 1971⁽¹⁵⁾ and which is not excepted from section 4(1)(b) of that Act (which makes it unlawful to supply a controlled drug) by regulations made under section 7(1)(a) of the Act;
 - (f) a substance which is a sample taken by an authority responsible for the enforcement of any requirement imposed by or under any enactment.
- (4) Substances and articles, including those mentioned in Schedule 2 and similar substances and articles which, when assembled in large mass, are liable to spontaneous oxidative heating over a long period of time shall not be treated as dangerous substances of Class 4.2 (spontaneously combustible substances) for the purposes of these Regulations.
- (5) For the purposes of these Regulations vessels which have carried a liquid dangerous substance in bulk and portable tanks which have contained a liquid dangerous substance shall be deemed to be still carrying or containing that dangerous substance, as the case may be, until in the case of a vessel it has been gas-freed, inerted or cleaned and in the case of a portable tank it has been purged or cleaned, so that any of the substance or its vapour that remains is not sufficient to create a risk to the health or safety of any person.

(8) 1984 c. 30.
(9) 1956 c. 30.
(10) S.I. 1980/1849.
(11) S.I. 1981/137.
(12) 1970 c. 40.
(13) S.I. 1984/1260.
(14) 1968 c. 67.
(15) 1971 c. 38.

Meaning of “operator”

- 4.—(1) “Operator” means in relation to a road vehicle—
- (a) a person who holds, or is required by section 60 of the Transport Act 1968⁽¹⁶⁾ to hold, a licence for the use of that vehicle for the carriage of goods on a road; or
 - (b) where no such licence is required, the keeper of the vehicle.
- (2) “Operator” means in relation to any other mode of transport and in relation to a berth or a storage tank, the person who has for the time being day-to-day control of its running.
- (3) “Operator” means in relation to a portable tank (other than the carrying tank of a road tanker) which is being conveyed by road, either—
- (a) the owner of the tank or his agent, if that person—
 - (i) has a place of business in Great Britain; and
 - (ii) is identified as the owner of or, as the case may be, as the agent of the owner of the tank on the portable tank itself or on a document carried on the vehicle; or
 - (b) if no person satisfies the requirements set out in sub-paragraph (a) above, the operator of the vehicle on which the portable tank is carried.
- (4) For the purpose of paragraph (3), a person to whom a portable tank is leased or hired shall be treated as the owner of that portable tank.

Application of these Regulations

- 5.—(1) These Regulations shall apply in every harbour and harbour area in Great Britain and to any premises or activities in any part of a harbour area in the territorial waters adjacent to Great Britain to which or in relation to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974⁽¹⁷⁾ apply by virtue of Article 5 (but only in so far as it relates to monobuoys) and 7 of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) order 1977⁽¹⁸⁾, but not (except as provided in regulation 33) elsewhere.
- (2) These Regulations shall apply to or in relation to any dangerous substance except to—
- (a) petroleum-spirit, intended for use as a fuel for any internal combustion engine and not wholly or partly for the purpose of sale, in a receptacle which conforms to the requirements of either—
 - (i) the Petroleum-spirit (Motor Vehicles, &c.) Regulations 1929⁽¹⁹⁾, or
 - (ii) the Petroleum-spirit (Plastic Containers) Regulations 1982⁽²⁰⁾,
 and which does not exceed the quantity specified in those Regulations;
 - (b) a dangerous substance used solely in connection with the operation of a vessel of less than 50 tons gross tonnage or a vehicle and carried in—
 - (i) a tank forming part of or attached to that vehicle or vessel,
 - (ii) the fuel tank of an outboard motor or in a battery, or
 - (iii) fuel pipes associated with any of the above;
 - (c) a dangerous substance when carried—
 - (i) by a vessel as part of the stores of that vessel,

⁽¹⁶⁾ 1968 c. 73.

⁽¹⁷⁾ 1974 c. 37.

⁽¹⁸⁾ S.I. 1977/1232.

⁽¹⁹⁾ S.R. & O. 1929/952, amended by S.I. 1982/630.

⁽²⁰⁾ S.I. 1982/630.

- (ii) by a vehicle or vessel or in a freight container as part of the equipment of that vehicle, vessel or freight container or for safety purposes,
 - (iii) by a vessel as a result of the use of a fumigant;
 - (d) a small quantity of a dangerous substance for the personal use of any person within the harbour or harbour area;
 - (e) a dangerous substance which—
 - (i) passes through a harbour or harbour area by land to or from a storage facility or a factory within the meaning of section 175, excluding sub-section (2)(n), of the Factories Act 1961⁽²¹⁾ whether within or adjacent to the harbour or harbour area,
 - (ii) is stored on land, or
 - (iii) is within a factory as defined above,other than a dangerous substance which is to be, or which has been, loaded on board or unloaded from a vessel within the harbour or harbour area or which is used ancillary to such loading or unloading;
 - (f) a dangerous substance, other than an explosive, when carried by a harbour craft in the course of harbour engineering operations;
 - (g) a nuclear explosive device or any component thereof.
- (3) Only regulation 16 shall apply to or in relation to a liquid petroleum fuel, other than petroleum-spirit, which is carried in a tank (and associated fuel pipes) which forms part of or is attached to, and which is used solely in connection with the operation of, a vessel.
- (4) The duties imposed by regulations 16, 17(1) and 18 shall not extend to—
- (a) the master or crew of a sea-going ship; or
 - (b) the employer of such persons,
- in relation to the normal ship board activities of a ship's crew under the direction of the master.
- (5) These Regulations shall not prejudice—
- (a) any action of Her Majesty's Commissioners of Customs and Excise or any requirement for approval of, authority from, clearance by or notification to, Her Majesty's Commissioners of Customs and Excise or the necessity to comply with any order or conditions imposed by Her Majesty's Commissioners of Customs and Excise;
 - (b) any action duly taken by a person in pursuance of a direction given to him under section 12 of the Prevention of Oil Pollution Act 1971⁽²²⁾, or any action taken under subsection (4) or (5) of that section.

⁽²¹⁾ 1961 c. 34.

⁽²²⁾ 1971 c. 60.