
STATUTORY INSTRUMENTS

1994 No. 3245

**MARINE POLLUTION
MERCHANT SHIPPING**

SAFETY

**The Merchant Shipping (Reporting Requirements for Ships
Carrying Dangerous or Polluting Goods) Regulations 1994**

Made - - - - *14th December 1994*
Laid before Parliament *21st December 1994*
Coming into force - - *11th January 1995*

The Secretary of State for Transport, in exercise of the powers conferred by:

- (a) article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987(1);
- (b) article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1990(2); and
- (c) sections 21(1)(a) and (b) and (3) to (6) and 22(1) of the Merchant Shipping Act 1979(3), after consulting the persons referred to in section 22(2) of that Act;

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

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1994 and shall come into force on 11th January 1995.

Interpretation and revocation

2.—(1) In these Regulations:

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- (1) *S.I.1987/470*, amended by *S.I.1990/2595*; the parliamentary procedure for regulations made under article 3 (being regulations made by virtue of section 20(4)(e) of the Merchant Shipping Act 1979 (c. 39)) was amended by section 20(4B) of that Act inserted by the Merchant Shipping (Salvage and Pollution) Act 1994 (c. 28), section 3(4).
 - (2) *S.I.1990/2595*; the parliamentary procedure for regulations made under article 3 (being regulations made by virtue of section 20(4)(e) of the Merchant Shipping Act 1979) was amended by section 20(4B) of that Act.
 - (3) 1979 c. 39: section 21(6) was amended by section 49(3) of 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).

“dangerous goods” means any substance which is within the definition of “dangerous goods” in regulation 1(3) of the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990⁽⁴⁾;

“discharge” means any release, howsoever caused, from a ship and includes escape, disposal, spilling, leaking, pumping, emitting or emptying; but does not include—

- (a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter signed in London on 13th November 1972⁽⁵⁾; or
- (b) any release directly arising from the exploration, exploitation or associated offshore processing of sea-bed mineral resources; or
- (c) any release for the purposes of legitimate scientific research into pollution abatement or control;

“the IMDG Code” means the 1990 edition of the International Maritime Dangerous Goods Code published by the International Maritime Organization, as amended from time to time by any document which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“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 substance of Class 6.2 in the IMDG Code;

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

“noxious liquid substance” means any substance which is within the definition of “noxious liquid substances” in regulation 1(2) of the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987⁽⁶⁾;

“oil” means petroleum in any form including crude oil, fuel oil, sludge and oil refuse and any refined petroleum products, other than petrochemicals which are noxious liquid substances;

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

“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;

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

“radioactive materials” means any substance of Class 7 in 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;

“United Kingdom ship” means a ship which —

- (a) is registered under the Merchant Shipping (Registration, etc.) Act 1993⁽⁷⁾; or
- (b) is not registered under the law of any other country but is wholly owned by persons each of whom is—

(4) S.I.1990/2605.

(5) Cmnd 5169.

(6) S.I. 1987/551, amended by 1990/2604, 1994/2083.

(7) S.I. 1993 c. 22.

- (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.

(2) The Merchant Shipping (Reporting of Pollution Incidents) Regulations 1987⁽⁸⁾ are hereby revoked.

(3) In the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990 regulation 9(3) and 9(7) shall be omitted.

Application

3. These Regulations apply to:

- (a) United Kingdom ships; and
- (b) other ships while they are within the United Kingdom or the territorial waters thereof.

Report prior to leaving port

(a) 4. (1) (a) Before a ship carrying packaged goods or solid dangerous goods in bulk departs from a port, the operator and master shall arrange for a copy of any list, manifest or stowage plan required by regulation 9(1) or 17(3) of the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990 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 the shorter.

(b) It shall be the duty of the operator to furnish on demand—

- (i) where the port of departure is in the United Kingdom, to any person or authority designated for this purpose by the Secretary of State; and
- (ii) where the port of departure is not in the United Kingdom, to the State in which it is situated,

the list, manifest or stowage plan referred to in sub-paragraph (a).

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

Incidents involving infectious substances

5. 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.

Report in the event of an incident

6.—(1) The master of a ship involved in an incident 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 made or likely to be made for the purpose of securing the safety of a ship or saving life; or
- (b) an actual or probable discharge of packaged goods from the ship; or

⁽⁸⁾ S.I. 1987/586.

(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⁽⁹⁾ or of the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987, shall report the particulars of such an incident without delay and in accordance with the requirements of regulations 7 and 9.

(2) In the event of a report from such a ship being incomplete or unobtainable, the operator shall make or complete the report required by paragraph (1).

Contents of reports following an incident

7.—(1) A report under regulation 6 or, if there is more than one, the initial report, shall as to form and content comply with the standard reporting requirements.

(2) In this regulation, “the standard reporting requirements” means the requirements stated in—

(a) part 2 (Standard Reporting Format and Procedures); and

(b) 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) on the General Principles for Ship Reporting Systems and Ship Reporting Requirements, including Guidelines for Reporting Incidents Involving Dangerous Goods, Harmful Substances and/or Marine Pollutants, adopted by the Assembly of the International Maritime Organization on 19th October 1989.

Supplementary reports

8. Any person required under regulation 6(1) or (2) 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) providing information concerning further developments; and

(b) comply 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

9. Any report under regulation 6 shall be made by the fastest telecommunications channels available with the highest possible priority to the nearest coastal state.

Penalties, etc.

10.—(1) Any contravention of these Regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine.

(2) It shall be a defence for a person charged under this regulation to show that he took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

(9) [S.I.1983/1398](#); relevant amendments are [S.I.1985/2040](#), [1992/98](#), [1993/1680](#).

Signed by authority of the Secretary of State for Transport

14th December 1994

Goschen
Parliamentary Under Secretary of State,
Department of 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 revoke and re-enact with amendments the Merchant Shipping (Reporting of Pollution Incidents) Regulations 1987.

The Regulations give effect to Protocol 1 to the International Convention for the Prevention of Pollution from Ships 1973 (MARPOL) as amended by amendments adopted on 5th December 1985 by the Marine Environment Protection Committee of the International Maritime Organisation (IMO) at its 22nd Session.

The Regulations also implement changes made by the Maritime Safety Committee of the IMO to regulations 5 and 7 of Chapter VII of the Safety of Life at Sea Convention 1974 (SOLAS) which require the retention of dangerous goods manifests and stowage plans ashore and also the reporting of any incidents involving the loss overboard of packaged dangerous goods. They also re-enact similar provisions in MARPOL, Annex III, regulation 4 relating to marine pollutants, previously contained in the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990.

The Regulations give effect to requirements in the IMDG Code for the shipper to provide prior notification before shipment of radioactive materials and for the master to report following an incident involving infectious substances.

Copies of the IMDG Code and IMO Resolution A. 648 (16) are obtainable from the IMO 4 Albert Embankment, London SE1 7SR.

Merchant Shipping Notices are obtainable from the Department of Transport, Marine Safety Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG and from any Marine Office of the Marine Safety Agency.