
STATUTORY INSTRUMENTS

1997 No. 2367

MARINE POLLUTION

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Dangerous Goods
and Marine Pollutants) Regulations 1997**

Made - - - - *24th September 1997*
Laid before Parliament *8th October 1997*
Coming into force - - *1st November 1997*

Where the Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to safety of ships and the health and safety of persons on them;

And whereas, in so far as the following Regulations are made in the exercise of powers conferred by section 85 of the Merchant Shipping Act 1995⁽³⁾, the Secretary of State has in pursuance of subsection (4) of section 86 of that Act consulted persons he considers will be affected as mentioned in that subsection;

And whereas in so far as the following Regulations are made in exercise of powers conferred by section 15(1) of the Health and Safety at Work etc. Act 1974⁽⁴⁾, after consulting with the Health and Safety Commission in accordance with subsection (1) of section 50 of that Act, it appeared to the Secretary of State that it was not appropriate to consult with any other body for the purposes of that subsection;

Now, therefore, 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 1990⁽⁵⁾;
- (b) section 2(2) of the European Communities Act 1972;
- (c) sections 85(1)(a) and (b), (3) and (5) to (7), and 86(1), of the Merchant Shipping Act 1995; and
- (d) section 15(1) of the Health and Safety at Work etc. Act 1974,

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

(1) S.I.1993/595.

(2) 1972 c. 68.

(3) 1995 c. 21; sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8, and are applied to hovercraft by the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350).

(4) 1974 c. 37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71) Schedule 15, paragraphs 6 and 16 respectively.

(5) S.I. 1990/2595.

PART I

GENERAL

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997 and shall come into force on 1st November 1997.

(2) The Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990⁽⁶⁾ are hereby revoked.

Interpretation

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

“Bulk Cargoes Code” means the 1996 edition of IMO Code of Practice for Solid Bulk Cargoes;

“BCH Code” means the 1993 edition of the IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

“cargo transport unit” means a road freight vehicle, a railway freight wagon, a freight container, a road tank vehicle, a railway tank wagon and a portable tank;

“classify” means to determine whether goods are dangerous goods or a marine pollutant for the purposes of sea transport. This is the determination (by appropriate method) of whether the goods possess the hazardous characteristics of classes from 1 to 9 of the IMDG Code in accordance with the most hazardous property of the goods. It extends to goods—

- (i) listed in the IMDG Code;
- (ii) not specifically listed but falling within the defining criteria for the classes from 1 to 9 of the IMDG Code; and
- (iii) where there is any cause to suspect that the substance is a marine pollutant as defined by the IMDG Code;

“correct technical name” means a description of the goods sufficient to identify their dangerous or polluting characteristics;

“dangerous goods” means goods classified in the IMDG Code or in any other IMO publication referred to in these Regulations as dangerous for carriage by sea, and any other substance or article that the shipper has reasonable cause to believe might meet the criteria for such classification;

This expression also includes—

- (i) residues in empty receptacles, empty tanks or cargo holds which have been used previously for the carriage of dangerous goods unless such receptacles, empty tanks or cargo holds have been cleaned and dried, purged, gas freed or ventilated as appropriate or, in the case of radioactive materials, have been both cleaned and adequately closed; and
- (ii) goods labelled, marked or declared as dangerous goods.

The expression shall not include goods forming part of the equipment or stores of the ship in which they are carried;

“dangerous goods declaration” means, subject to regulation 12, a certificate or declaration in writing, signed by the person making it, that the shipment offered for carriage is properly

(6) S.I. 1990/2605, amended by S.I. 1994/3245.

classified, packaged, marked, labelled and placarded, as appropriate, in accordance with the IMDG Code and is in proper condition for carriage by sea;

“employee” means a person (including the master but excluding dock workers or shore-based repair or other workers temporarily employed on board the ship) employed:

- (i) in the deck, engine, radio, medical or catering department of a ship, or
- (ii) in the provision of goods, services or entertainment on board;

“forwarder” means the person by whom the dangerous goods declaration or marine pollutants declaration and packing certificate are received, and any person responsible for packing the goods into a cargo transport unit, for eventual delivery to the ship or its agent;

“Gas Carrier Code” means the 1983 edition of the IMO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

“Gas Carrier Code for Existing Ships” means the 1976 edition of the IMO Code for Existing Ships Carrying Liquefied Gases in Bulk, including the first set of amendments (adopted by the Maritime Safety Committee of the IMO in April 1978), the second set of amendments (adopted by the Maritime Safety Committee of IMO in May 1979), the third set of amendments (adopted by the Maritime Safety Committee of IMO in May 1980) and the fourth set of amendments (adopted by the Maritime Safety Committee of IMO in November 1984);

“handling” includes the operations of loading, unloading and transferring dangerous goods or marine pollutants and cleaning, purging, gasfreeing, ullaging, sounding, sampling and similar operations required for the carriage of such goods in a ship; and cognate expressions shall be construed accordingly;

“IBC Code” means the 1994 edition of the IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

“IGC Code” means the 1993 edition of the IMO International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

“IMDG Code” means the 1994 consolidated edition of the International Maritime Dangerous Goods Code as amended by Amendment No. 28–96;

“IMO” means the International Maritime Organisation;

“IMO Recommendations” means the 1995 edition of Recommendations on the Safe Transport of Dangerous Cargoes and Related Activities in Port Areas (1995 edition);

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

“marine pollutant” means a substance classified as such in the IMDG Code, or as a noxious liquid substance in the IBC Code, and any other substance, material or article that the shipper has reasonable cause to believe might meet the criteria for such classification;

“marine pollutants declaration” means a certificate or declaration in writing, signed by the person making it, that the shipment offered for carriage is properly classified, packaged and marked in accordance with the IMDG Code and is in a proper condition for carriage to minimise the hazard to the marine environment;

“Marine Safety Agency” means the Marine Safety Agency, an executive agency of the Department of the Environment, Transport and the Regions;

“Merchant Shipping Notice” means a Notice described as such, issued by the Marine Safety Agency and any reference to a particular Merchant Shipping Notice includes a reference to any Merchant Shipping Notice amending or replacing it which the Secretary of State considers relevant from time to time;

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

“package” means an individual package or receptacle described in the IMDG Code as an intermediate bulk container;

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

“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(7), and its 1978 Protocol(8), as amended, as in force on 1st January 1996;

“UN number” means the number allocated to the dangerous substance, article or material by the IMDG Code or in any other IMO publication referred to in these Regulations;

“United Kingdom ship” means a ship or hovercraft which—

- (a) is registered under Part II of the Merchant Shipping Act 1995;
- (b) is registered under the Hovercraft Act 1968(9);
- (c) is a Government ship, within the meaning of section 308(4) of the Merchant Shipping Act 1995 used for commercial purposes; or
- (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.

(2) Any reference in these Regulations to the Bulk Cargoes Code, the BCH Code, the Gas Carrier Code, the Gas Carrier Code for existing ships, the IBC Code, the IGC Code, the IMDG Code, or IMO Recommendations shall include a reference to any document amending that publication which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice.

(3) Where these Regulations require the carriage of dangerous goods or marine pollutants to be in accordance with a Code or Recommendation referred to in paragraph (2), and the Secretary of State has specified in Merchant Shipping Notices MSN 1705 or MSN 1706 conditions in relation to such carriage then (whether or not the Code or Recommendation contains conditions on such matters) the Code or Recommendation shall have effect for the purposes of these Regulations as if it contains the conditions so specified by the Secretary of State. “Carriage” in this paragraph includes packing, documentation, packaging, marking, labelling, stowage, segregation and handling.

(4) Any reference in these Regulations, unless otherwise stated,

- (a) to a numbered regulation is to the regulation of that number in these Regulations;
- (b) to a numbered paragraph is to the paragraph of that number in that regulation.

Amendment of Dangerous Substances in Harbours Areas Regulations 1987

3. The Dangerous Substances in Harbour Areas Regulations 1987(10) are hereby amended as follows:

- (a) in regulation 2(1) in sub-paragraph (a)(i) of the definition of “classification”, and in regulation 25(2)(e), for “the Merchant Shipping (Dangerous Goods and Marine Pollutants)

(7) Cmnd 7874.

(8) Cmnd 7346.

(9) 1968 c. 59.

(10) S.I. 1987/37; relevant amendment in S.I. 1990/2605.

Regulations 1990” there shall be substituted “the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997”;

- (b) in regulation 2(1), in the definition of “the IMDG Code”, for “regulation 1(3) of the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990” there shall be substituted “the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997”; and
- (c) in regulation 3(1), for “regulation 1(2) of the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990” there shall be substituted “the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997, except that nothing in those Regulations shall be construed as defining a marine pollutant in Class 9 of the IMDG Code under UN number 3077 or 3082 or any substance otherwise included in Class 9 of the IMDG Code solely by reason of its being a marine pollutant, as a dangerous substance for the purposes of these Regulations.”.

Exemptions

4. The Secretary of State may grant exemptions from all or any of the provisions of these regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Application

5.—(1) Subject to paragraph (2) these Regulations apply to ships carrying dangerous goods in bulk or packaged form or marine pollutants in packaged form.

(2) These Regulations apply to United Kingdom ships wherever they may be and to other ships while they are within the United Kingdom waters.

General duties of operators and employers

6.—(1) It shall be the duty of every operator, every employer of persons aboard a ship and every master of a ship to ensure that, so far as is reasonably practicable, when dangerous goods are being handled, stowed or carried on the ship nothing in the manner in which those goods are handled, stowed or carried as the case may be is such as might create a significant risk to the health and safety of any person.

(2) Without prejudice to the generality of the operator's, employer's or master's duty under paragraph (1) the matters to which the duty of the operator and of the employer extends shall include in particular:

- (a) the provision and maintenance of ship's structure, fittings and equipment for the handling, stowage and carriage of dangerous goods.
- (b) the provision of such information, instruction, training and supervision to all employees in connection with the handling, stowage and carriage of dangerous goods in the ship.

(3) If an employer, operator or master fails to comply with paragraphs (1) and (2) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level five on the standard scale.

(4) It shall be a defence to a charge under this regulation in relation to the handling of dangerous goods that such handling was carried out in accordance with appropriate provisions of the IMO Recommendations.

General duties of employees aboard ship

7.—(1) It shall be the duty of every employee aboard ship:

- (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions in connection with the handling, stowage and carriage of dangerous goods in the ship; and
- (b) as regards any duty or requirement imposed on the operator, or the employee's employer by the Merchant Shipping Act 1995 or any regulation or rule made thereunder with regard to the health and safety of persons aboard a ship to which these Regulations apply, to cooperate with the operator or employer so far as is necessary to enable that duty or requirement to be performed or complied with in connection with the handling, stowage and carriage of dangerous goods in the ship.

(2) If any employee aboard a ship carrying dangerous goods fails to comply with paragraph (1) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level three on the standard scale.

Misconduct endangering a United Kingdom ship or persons aboard

8.—(1) In connection with the handling, stowage and carriage of dangerous goods in a United Kingdom ship, no person shall intentionally or recklessly interfere with or misuse anything provided on, or disobey instructions displayed on, the ship in the interests of health or safety in pursuance of the Merchant Shipping Act 1995 or any regulation or rule made thereunder.

(2) If any person aboard a ship carrying dangerous goods fails to comply with paragraph (1) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level four on the standard scale.

Onus of proving what is reasonably practicable

9. In any proceedings for an offence under regulation 5 or 6 consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

PART II

CARRIAGE OF PACKAGED GOODS

Declaration

10.—(1) No packaged goods shall be offered for carriage or taken on board any ship unless a dangerous goods declaration or a marine pollutants declaration, or a combined dangerous goods and marine pollutants declaration, as appropriate has been provided to the master or operator.

(2) The declaration referred to in paragraph (1) shall accurately identify the date the document was prepared and the name, status and company or organisation of the signatory.

(3) No packaged goods shall be offered for carriage or taken on board any ship unless the master or operator has been provided with a document including without prejudice to regulation 11(2). Such details include the following details—

- (a) the proper shipping name,
- (b) the class and division where applicable,
- (c) the United Nations (UN) numbers where allocated by the IMDG Code,

- (d) where relevant the packaging or packing group,
- (e) the number and kind of packages,
- (f) the total quantity of dangerous goods or net explosive mass of the contents,
- (g) the words MARINE POLLUTANT where appropriate; and
- (h) any other information required by the IMDG Code.

(4) The declaration referred to in paragraph (1) shall be combined with the document referred to in paragraph (3).

(5) It shall be the duty of the shipper to deliver to the operator or master the declaration required by this regulation, unless he does not deliver the goods to the ship or its agent.

(6) In consigning the goods for carriage by sea, the shipper shall make proper provision to ensure the onward delivery of the declaration and document required by this regulation to the ship or its agent.

(7) In the case that the goods are not delivered by the shipper to the ship or its agent, but are provided to another person for onward delivery of the goods or for the consolidation of the goods with other goods or cargoes for eventual delivery, responsibility for providing the document and declaration shall rest upon the forwarder and each person responsible for onward transfer and delivery as it does for the shipper in paragraphs (5) and (6). Responsibility for providing the document and declaration shall not extend to those persons who are solely engaged in the loading of the goods onto the ship or moving the goods around the port or terminal.

(8) The requirements of paragraph (7) shall be without prejudice to the duties of the shipper contained in regulations 11 and 12.

(9) If a shipper, a forwarder, or other person referred to in paragraph (7)—

- (a) fails to provide the operator or master of the ship with the document and declaration as required by this regulation, or
- (b) provides a declaration or document which he knows to be false or recklessly makes a declaration which is false in a material particular,

he shall be guilty of an offence.

(10) If an operator or master accepts for carriage, or takes or receives on board any packaged goods for which a document and declaration which is required by this regulation has not been provided he shall be guilty of an offence.

Preparation of goods for transport

11.—(1) The shipper shall not offer packaged goods for carriage unless:

- (a) all the conditions specified in the IMDG Code have been complied with in relation to their declaration, classification, marking, packaging, labelling, placarding and prior notification to competent authority or consignee, as appropriate; and
- (b) in the case of goods in a portable tank or tank container or vehicle the goods have been properly and safely prepared for carriage by sea by comply with applicable tank requirements in accordance with the IMDG Code.

(2) In preparing any goods for shipment it shall be the duty of the shipper to identify and classify dangerous goods or marine pollutants in order to ensure that the proper precautions and preparations can be made for transport as required by these Regulations.

(3) No declaration required by regulation 10 above shall be signed by the shipper unless paragraphs (1) and (2) have been complied with.

(4) Any contravention of paragraphs (1) to (3) shall be an offence by the shipper.

(5) An operator or master shall not accept for carriage, or take or receive on board any packaged goods where he has reasonable cause to suspect that the goods are not in compliance with paragraph (1). Any contravention of this paragraph by the operator or master shall be an offence.

Container or Vehicle Packing Certificates

12.—(1) Where packaged goods are to be packed or shipped in or on a cargo transport unit, the person responsible for packing such goods therein shall:

- (a) ensure that the stowage, segregation and securing of the goods is adequate and in accordance with the IMDG Code;
- (b) provide the operator or master or shipper or forwarder, with a signed packing certificate in accordance with the requirements of the IMDG Code, indicating the cargo transport unit, identification number or numbers and identifying the place and date of the operation, the name of the person responsible for the packing and his status, and company or organisation.

(2) This regulation does not apply in relation to goods packaged within a portable tank, road tank vehicle, rail tank wagon or tank container.

- (a) (3) (a) If the person responsible for packing such goods contravenes paragraph (1) he shall be guilty of an offence.
- (b) If the shipper or forwarder fails to provide the operator or master of the ship with the signed packing certificate he shall be guilty of an offence.

(4) An operator or the master shall not accept on any ship any cargo transport unit with such goods in it without a signed packing certificate. If an operator or the master contravenes with this paragraph he shall be guilty of an offence.

Documentation by electronic data processing or electronic data interchange

13. A dangerous goods declaration, marine pollutant declaration, any accompanying documentation required by regulations 10 and 12 and a packing certificate may be provided directly to the master or operator in the form of a paper document or by electronic data processing or electronic data interchange methods.

List, manifest or stowage plan

14.—(1) The master of any ship carrying packaged goods shall cause a special list, manifest or stowage plan to be carried in the ship:

- (a) setting out details, obtained from the shipping documents submitted by the shipper, of the packaged goods on board including the correct technical name of the goods, their classification in accordance with the IMDG Code and their mass or volume; and
- (b) showing details of the location in the ship where the goods are stowed.

(2) The information required by paragraph (1) may be contained in a combined list, manifest or stowage plan relating to both packaged dangerous goods and packaged marine pollutants, or in two such lists, manifests or stowage plans, one relating to dangerous goods and the other to marine pollutants. Where a combined document is used it shall show clearly which goods are dangerous goods and which are marine pollutants.

(3) The master shall also carry in the ship any additional special documents where required by the IMDG Code for the carriage of packaged dangerous goods.

(4) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of goods for carriage in the ship pursuant to paragraph (3) shall be kept available for reference or inspection on board the ship until the goods have been discharged from the ship.

(5) If the master of a ship carrying packaged goods fails to cause a list, manifest or stowage plan or additional special documents to be carried in the ship or kept available as required by paragraph (4), he shall be guilty of an offence.

Marking and labelling

15.—(1) Packaged goods shall not be taken on any ship for carriage in that ship unless they are marked, labelled and placarded, and display a fumigation warning sign, as appropriate and specified in the IMDG Code.

(2) Any breach of paragraph (1) relating to the marking, labelling or placarding of packaged goods shall be an offence on the part of the shipper of those goods.

(3) If an operator or master accepts dangerous goods or marine pollutants on board a ship in any package which has not been marked, labelled or placarded or does not display a fumigation warning sign, as required by paragraph (1), he shall be guilty of an offence.

Stowage on board ship

16.—(1) Packaged goods shall not be accepted on board if their stowage on board is prohibited by the IMDG Code.

(2) Packaged goods shall not be accepted on board unless any necessary additional safety equipment is provided in accordance with the IMDG Code.

(3) Packaged goods shall be adequately stowed, segregated and secured on board ship in accordance with the IMDG Code.

(4) If an operator or master accepts on board ship packaged goods in contravention of paragraph (1) or (2) he shall be guilty of an offence.

(5) If an operator or master fails to comply with the provisions of paragraph (3) he shall be guilty of an offence.

17.—(1) Where the vessel carries a cargo securing manual pursuant to regulation 18, cargo transport units, including containers, shall be loaded, stowed and secured throughout any voyage in accordance with the cargo securing manual.

(2) If an operator or master fails to comply with paragraph (1) he shall be guilty of an offence.

Cargo securing documentation

18.—(1) On and after 1st January 1998 no packaged goods shall be carried on ships of the following descriptions—

(i) all ships engaged on international voyages;

(ii) passenger ships engaged on voyages other than international voyages; and

(iii) cargo ships of 500 gross tons or over engaged on voyages other than international voyages;

without carrying a Cargo Securing Manual drawn up to a standard contained in the IMO Maritime Safety Committee Circular MSC/Circ. 745 dated 13th June 1996 and approved by or on behalf of the Secretary of State or the administration of the state in which the ship is registered, or whose flag the ship is entitled to fly.

(2) If an operator or master fails to comply with paragraph (1) he shall be guilty of an offence.

Operational requirements

19.—(1) The operator and master shall ensure all employees are familiar with the essential actions to be taken in an emergency involving such packaged goods as are carried on the ship.

(2) If an operator or master fails to comply with paragraph (1) he shall be guilty of an offence.

PART III

Carriage of Dangerous Goods or Marine Pollutants in Bulk

20.—(1) Dangerous goods or marine pollutants shall not be handled or carried in bulk in any ship if the operator has any cause to believe that such goods may not be so handled or carried safely in that ship.

(2) Without prejudice to paragraph (1):

(a) where the dangerous goods or marine pollutants in question are goods listed in Chapter VI of the BCH Code, or in Chapter 17 of the IBC Code, or in Chapter XIX of the Gas Carrier Code for Existing Ships, or in Chapter XIX of the Gas Carrier Code, or in Chapter 19 of the IGC Code, or are classified dangerous goods listed in Appendix B of the Solid Bulk Cargoes Code, they shall be handled and carried in accordance with the requirements of whichever of the codes is appropriate; or

(b) where the dangerous goods or marine pollutants, in question consist of a liquid chemical or a liquefied gas which is not listed in the Codes mentioned in sub-paragraph (a), they shall be handled and carried in accordance with an approval given by the Secretary of State. Any such approval shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

(3) If there is any breach of paragraphs (1) or (2) the operator and master shall each be guilty of an offence.

Documentation

21.—(1) The shipper of any dangerous goods or marine pollutants to be carried in bulk shall provide the operator or the master with a notification in writing giving notice of the nature of the goods and, in the case of liquid goods with a flashpoint at or below 60 degrees celsius (closed cup), specifying the flashpoint of those goods. Such notification shall specify the correct technical name of the goods, their UN number (if any) and, for dangerous goods carried in solid form in bulk, the classification as listed in the IMDG Code to which those goods belong.

(2) If a shipper of any dangerous goods or marine pollutants in bulk—

(a) fails to provide the operator or the master with a notification in writing, or

(b) provides a notification which he knows to be false or recklessly provides a notification which is false in a material particular, he shall be guilty of an offence.

(3) The master of a ship carrying dangerous goods or marine pollutants in bulk shall cause a specific list, manifest or stowage plan to be carried in the ship for the voyage on which it is currently engaged:

(a) setting out details, obtained from the shipping documents submitted by the shipper, of the dangerous goods or marine pollutants carried aboard the ship for the voyage on which it is currently engaged including the correct technical name of the goods, their mass or volume and, where the dangerous goods are shown in Appendix B of the Bulk Cargoes Code, the Classification in accordance with the IMDG Code; and

(b) showing details of the location in the ship where the goods are stowed.

(4) The master shall also carry in the ship any additional special documents where required by the Bulk Cargoes Code, the BCH or IBC Codes or the IGC or Gas Carrier Codes for the carriage of dangerous goods or marine pollutants.

(5) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of such goods for carriage in the ship shall be kept available for reference or inspection on board the ship until the goods have been discharged from the ship.

(6) If the master of a ship carrying dangerous goods or marine pollutants in bulk fails to cause a list or stowage plan or any additional special documents referred to in paragraph (3) to be carried in the ship or kept available as required by paragraph (5), he shall be guilty of an offence.

PART IV

Spaces for carriage of packaged goods and dangerous goods in solid form in bulk

- (a) **22.** (1) (a) This regulation applies to—
- (i) passenger ships constructed on or after 1st September 1984;
 - (ii) cargo ships of 500 tons or over, constructed on or after 1st September 1984; and
 - (iii) cargo ships of less than 500 tons constructed on or after 1st February 1992.
- (b) In this paragraph—
- (i) “cargo ship” means a ship other than—
 - (aa) a passenger ship;
 - (bb) a pleasure vessel within the meaning of regulation 3 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1993⁽¹¹⁾; or
 - (cc) a fishing vessel;
 - (ii) “passenger ship” means a ship carrying more than 12 passengers;
 - (iii) the date on which a ship was constructed is the date on which the keel was laid, or on which it was at a similar state of construction; and “similar stage of construction” means a stage at which:
 - (aa) construction identifiable with a specific craft begins; and
 - (bb) assembly of that craft has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is the less.

(2) No packaged goods or solid dangerous goods in bulk shall be taken on board or accepted for carriage or carried on any ship unless the spaces in which they are to be carried or are carried, as the case may be, comply with the provisions of Regulation 54 in Chapter II-2 of SOLAS (whether or not the ship is engaged on international voyages).

(3) In the case of ships engaged on international voyages no packaged goods or solid dangerous goods in bulk shall be taken on board, or carried, unless the ship has on board a Document of Compliance issued by or on behalf of the Secretary of State or the competent authority of the State in which it is registered.

(4) Any operator or master who accepts for carriage, or carries, packaged goods or dangerous goods in solid form in bulk:

- (a) on a ship in which the spaces in which they are to be or are carried in do not comply as required by paragraph (2); or

⁽¹¹⁾ S.I. 1993/1072.

(b) in the case of a ship engaged on international voyages, on a ship which does not have on board a Document of Compliance as required by paragraph (3), shall be guilty of an offence.

PART V ENFORCEMENT

Power to detain

23. In any case where a ship does not comply with the requirements of these Regulations the ship shall be liable to be detained and section 284 of the Merchant Shipping Act 1995⁽¹²⁾ (which relates to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as if for the words “this Act”, wherever they appear, there were substituted the words “the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997”.

Penalties

24.—(1) A person guilty of an offence under Parts II, III or IV of these Regulations shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

(2) In any proceedings for an offence under Parts II, III or IV of these Regulations it shall be a defence for a person to prove that:

- (a) all reasonable steps had been taken by him to ensure compliance with the Regulations; or
- (b) he did not know nor ought to have known nor had reasonable grounds for suspecting the goods to be dangerous goods or marine pollutants as the case may be; or
- (c) that the goods were handled and carried in accordance with the provisions of the IMDG Code where appropriate; or
- (d) if the person charged is the operator or master, in the case of goods packed in a freight container or vehicle, that before the freight container or vehicle was taken on board the ship the person responsible for packing the goods into the freight container or vehicle had provided the operator or master of the ship with a signed packing certificate certifying that the goods had been properly packed in the freight container or vehicle; or
- (e) the goods being solid dangerous goods in bulk were being handled and carried in accordance with the Bulk Cargoes Code; or
- (f) the goods being liquid chemical or gaseous dangerous goods in bulk such goods were being handled and carried in accordance with the relevant requirements of the BCH Code, the IBC Code, the Gas Carrier Code, the Gas Carrier Code for Existing Ships or the IGC Code;
- (g) the goods were being carried in accordance with Merchant Shipping Notices MSN 1705 or MSN 1706 where appropriate.

Offences due to fault of another person

25. Where the commission by any person of an offence under Parts I, II, III or IV of these Regulations is due to the act or default of some other person, that other person shall be guilty of the

(12) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997, Schedule 1.

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.

Signed by authority of the Secretary of State for Transport

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

24th September 1997

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 replace the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990. The principal changes are:

- (a) The responsibilities formerly placed on the shipowner are now placed on the operator of the ship (who may include the owner, any charterer, manager and agent).
- (b) The Regulations implement Article 4 of Council Directive No. [93/75/EEC](#) (O.J. No. 247, P19, 5–10–93) relating to vessels bound for or leaving community ports and carrying dangerous or polluting goods (*regulations 10, 20 and 21*).
- (c) The Regulations implement the 1991 Amendments to the Safety of Life at Sea Convention 1974 (Solas) adopted by the Maritime Safety Committee by Resolution requiring a Document of Compliance and the 1994 Amendments adopted by Resolution MSC.42(64) (as amended), requiring an approved cargo securing manual from 1st January 1998 (*regulations 18 and 19*).
- (d) There are general duties to comply with the provisions of the IMDG Code.
- (e) The IMO Codes are generally updated to those currently in force.

Copies of the Solas, its 1978 Protocol, and amendments, and of various Codes and the IMO Recommendations referred to in the Regulations are obtainable from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.

Merchant Shipping Notices are obtainable from Eros Marketing Support Services Ltd, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesley, Surrey KT8 0BN.

A copy of the compliance cost assessment for these Regulations can be obtained from the Marine Information Centre of the Marine Safety Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG.