

MERCHANT SHIPPING (SAFETY) (DANGEROUS GOODS AND MARINE POLLUTANTS)
REGULATION
- CHAPTER 413H

LONG TITLE

Empowering section VerDate:30/06/1997

(Cap 369, sections 101 and 107)

(Cap 413, section 3)

[2 December 1994]

(L.N. 642 of 1994)

SECT 1

Interpretation VerDate:05/11/1999

PART I

GENERAL

(1) In this Regulation, unless the context otherwise requires-

"BCH Code" (æ•fâÆ-è|□â%o‡) means the 1993 edition of the IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

"Bulk Cargoes Code" (ã€Šæ•fê2"è|□â%o‡ã€‹) means the 1991 edition of the IMO Code of Safe Practice for Solid Bulk Cargoes;

"correct technical name" (æfçø°æŠ€è|“â□□ç”±) means a description of the goods sufficient to identify their dangerous characteristics, including any proper name described in the IMDG Code;

"dangerous goods" (â□±ésªè2"ç%©) means-

(a) goods classified in the IMDG Code or any other IMO publication as dangerous for carriage by sea; and

(b) any other substance or goods the properties of which might be dangerous if such substance or goods were carried by sea, and includes empty receptacles, and residues in empty tanks or cargo holds, which have been used previously for the carriage of dangerous goods, except where such receptacles, empty tanks or cargo holds have been-

(i) cleaned and dried;

(ii) gas freed or ventilated as appropriate; or

(iii) where the previous contents were radioactive substances, cleaned and adequately closed, but shall not include goods forming part of the equipment or stores of the ship in which goods or substances are carried;

"dangerous goods declaration" (â□±ésªè2"ç%©è□²æ~Ž) means a certificate or declaration in writing, signed by the person making it that the shipment offered for carriage is properly classified, packaged, marked, labelled or placarded, as appropriate, in accordance with the IMDG Code and is in a proper condition for carriage by sea;

"durably marked" (âŠ ä,Šë€□ä¹...æ™ë™) means that the label or other marking in accordance with this Regulation is such as to remain identifiable on packages surviving at least 3 months immersion in the sea, and "durable" (è€□ä¹...) shall be construed accordingly;

"employee" (âƒ±â“;j) means a person (including the master but excluding dock workers or shore based repairers and other workers temporarily employed on board the ship) employed-

(a) in the navigational, engine, radio, medical or catering department of a ship; or

(b) in the provision of goods, services or entertainment on board;

"explosives" (ç†ç,â“□) are those articles and substances contained in Class 1 of the IMDG Code;

"flammable liquid" (æ™“ç‡ƒæŒ²é«”) means a liquid the flash point of which is at or below 60 degrees Celsius (closed cup) in respect of bulk cargoes and at or below 61 degrees Celsius (closed cup) in respect of packaged goods;

forwarder" (ä»£é□äºº) means the person by whom dangerous goods or marine pollutants are delivered to the ship or its agent;

"handling" (è™•ç□†) includes the operations of loading, unloading and transferring dangerous goods and cleaning, purging, gas freeing, ullaging, sounding, sampling and similar operations required for the carriage of such goods in a ship;

"Hong Kong ship" (é™æ,è¹è™Œ) means a ship registered in Hong Kong;

"IBC Code" (â€Šâœ‹éš›æ•ƒâœ—è|â%‡â€‹) means the 1990 edition of the IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

"IGC Code" (â€ŠâœŒ²æ°ƒè¹è|â%‡â€‹) means the 1993 edition of the IMO International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

"IMDG Code" (â€Šæµ•é□â±ésªè²”ç%©è|â%‡â€‹) means the 1992 consolidated edition of the International Maritime Dangerous Goods Code;

"IMO" means the International Maritime Organization;

"in bulk" (æ•ƒèƒ□) 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" (æµ•æ’æ±;æŸ“ç%©) means a substance which presents a hazard to the marine environment and is identified in the IMDG Code as a marine pollutant;

"marine pollutant declaration" (æµ•æ’æ±;æŸ“ç%©è□²æŸŽ) 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 minimize the hazard to the marine environment;

"Merchant Shipping Notice" (â•†è¹â¹...âŠ) means a notice issued by the Director and designated by an identifying number as a Merchant Shipping Notice;

(64 of 1999 s. 3)

"package" (âœ…èƒ□ç%©) 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 unit containing dangerous goods or marine pollutants for shipment, and "packaged" (çŒ“âœ…èƒ□) shall be construed accordingly;

"packaged goods" (çŒ“âœ…èƒ□è²”ç%©) means packaged dangerous goods or packaged marine

pollutants;

"shipowner" (è¹æ±) includes-

(a) where the ship is chartered by demise, the demise charterer;

(b) where the ship is managed by a ship management company, the manager;

"shipper" (ä»é□ä°) means a person who, whether as principal or agent for another, consigns for carriage by sea dangerous goods or marine pollutants;

"UN number" (è□ā□âœç·è™Ÿ) means the number allocated to the dangerous substance or article by the United Nations Committee of Experts on the Transport of Dangerous Goods specified in the eighth revised edition of their publication "Recommendations on the Transport of Dangerous Goods" published in 1993 by the United Nations Organization.

(2) Any reference in this Regulation to the BCH Code, the Bulk Cargoes Code, the IBC Code, the IGC Code, the IMDG Code or the United Nations 1993 publication entitled "Recommendations on the Transport of Dangerous Goods" shall include a reference to such document as amended from time to time.

(3) Where this Regulation requires the carriage of dangerous goods or marine pollutants to be in accordance with a Code referred to in subsection (2), and where the Director has by notice published in the Gazette specified conditions in relation to such carriage, then (whether or not the Code contains conditions on such matters) the Code shall have effect for the purpose of this Regulation as if it contains the conditions so specified by the Director. "Carriage" (é□è¼,) in this subsection includes packing, documentation, packaging, marking, labelling, stowage, segregation and handling.

(4) The Director may-

(a) grant exemptions from all or any of the provisions of this Regulation in respect of classes of cases or individual cases as may be specified in the exemption; and

(b) after giving reasonable notice, vary or revoke any such exemption.

(Enacted 1994)

SECT 2

Application VerDate:01/07/1997

Adaptation amendments retroactively made - see 64 of 1999 s. 3

(1) This Regulation applies to ships carrying dangerous goods in bulk or packaged form and marine pollutants in packaged form.

(2) This Regulation applies to Hong Kong ships wherever they may be and to other ships while they are within Hong Kong or the waters of Hong Kong. (64 of 1999 s. 3)

(Enacted 1994)

SECT 3

General duties of ship owners, employers and masters VerDate:05/11/1999

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

(2) Without prejudice to the generality of subsection (1), the matters to which the duty of the shipowner, the employer or the master extends, shall include in particular -

(a) the provision and maintenance of ship's equipment for the handling, stowage and carriage of dangerous goods, which shall be, so far as is reasonably practicable, safe and without risk to health;

(b) the provision of such information, instructions, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety aboard the ship of employees in connection with the handling, stowage and carriage of dangerous goods on the ship.

(3) Any person who fails to comply with subsection (1) commits an offence and is liable to a fine at level 3.

(4) It shall be a defence to a charge under this section in relation to the handling, loading or unloading of dangerous goods that such handling, loading or unloading as the case may be, was carried out in accordance with the Code of Practice for the Handling, Loading and Unloading of Dangerous Goods in Harbour Areas published at Annex 1 to Merchant Shipping Notice No. 1014. (64 of 1999 s. 3)
(Enacted 1994)

SECT 4

General duties of employees aboard ship VerDate:30/06/1997

Every employee on board a ship shall-

(a) 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) where any duty or requirement is imposed on the shipowner, the employer or the master by the Merchant Shipping (Safety) Ordinance (Cap 369) with regard to the safety or health of persons aboard a ship, co-operate with the shipowner, employer or master 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.
(Enacted 1994)

SECT 5

Misconduct endangering the ship or person on board ship VerDate:30/06/1997

In connection with the handling, stowage and carriage of dangerous goods in the ship, no person shall intentionally or recklessly interfere with or misuse anything provided on, or disobey instructions displayed on, a ship in the interests of health, safety or welfare in pursuance of the Merchant Shipping (Safety) Ordinance (Cap 369).
(Enacted 1994)

SECT 6

Offences and penalties under sections 4 and 5 VerDate:30/06/1997

Any-

(a) employee aboard a ship carrying dangerous goods who fails to comply with section 4 commits an offence and is liable to a fine at level 1; and

(b) person in a ship carrying dangerous goods who fails to comply with section 5 commits an offence and is liable to a fine at level 1.
(Enacted 1994)

SECT 7

Onus of proving what is reasonably practicable VerDate:30/06/1997

In any proceedings for an offence under this Part 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 defendant to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.
(Enacted 1994)

SECT 8

Documentation VerDate:30/06/1997

PART II

CARRIAGE OF PACKAGED GOODS

(1)(a) No packaged goods shall be offered for carriage or taken on board any ship unless a dangerous goods declaration or a marine pollutants declaration as appropriate has been furnished to the shipowner or master.

(b) Where goods are both dangerous and a marine pollutant, the dangerous goods declaration and the marine pollutant declaration may be a combined document.

(2)A declaration referred to in subsection (1) shall indicate the correct technical name followed by the words "MARINE POLLUTANT" where appropriate, the UN number (whenever such a number exists) and in the case of dangerous goods shall indicate to which of the following classes the goods belong-

Class 1- Explosive.

Class 2- Gases compressed, liquefied or dissolved under pressure, subdivided

into three categories;

2.1- Flammable gases;

2.2- Non-flammable gases, being compressed, liquefied or dissolved, but neither flammable nor poisonous;

2.3- Poisonous gases.

Class 3- Flammable liquids, subdivided into three categories;

3.1- Low flashpoint group of liquids having a flashpoint below-18oC, closed cup test;

3.2- Intermediate flashpoint group of liquids having a flashpoint of-18oC up to, but not including, 23oC, closed cup test;

3.3- High flashpoint group of liquids having a flashpoint of 23oC up to and including 61oC, closed cup test.

Class 4.1- Flammable solids.

Class 4.2- Substances liable to spontaneous combustion.

Class 4.3- Substances which in contact with water emit flammable gases.

Class 5.1- Oxidizing substances (agents).

Class 5.2- Organic peroxides.

Class 6.1- Poisonous (toxic) substances.

Class 6.2- Infectious substances.

Class 7- Radioactive substances.

Class 8- Corrosives.

Class 9- Miscellaneous dangerous substances and articles which present a danger not covered by other classes.

(3) Such declaration shall include the following information where appropriate-

(a) the number and type of packages;

(b) the total quantity of packaged goods covered by the declaration (gross weight or volume);

(c) other information required by the IMDG Code.

(4) The declaration shall include a statement that the goods are packaged in accordance with this Regulation.

(5) It shall be the duty of the shipper to furnish the shipowner or master with the declaration required by this section, unless he does not deliver the goods to the ship or its agent. In such case it shall be the duty of the shipper to furnish the forwarder with such declaration.

(6) In the case that the shipper does not deliver the goods to the ship or its agent it shall be the duty of the forwarder to furnish the shipowner or master with the declaration.

(7) A shipper or a forwarder who fails to furnish a declaration as required by this section, or furnishes a declaration which he knew or ought to have known to be false, commits an offence.

(8) A shipowner or master who accepts for carriage, or takes or receives on board, any packaged goods for which a declaration which is required by this section has not been furnished commits an offence.

(Enacted 1994)

SECT 9

Packing certificates VerDate:30/06/1997

(1) Where packaged goods have been packed into a freight container or into or onto a vehicle, the person responsible for packing such goods therein shall furnish the shipowner or master of the ship with a signed packing certificate in accordance with the requirements of the IMDG Code. Such a certificate may be combined with the document referred to in section 8(5).

(2) A person responsible for packing such goods who fails to furnish the owner or the master of the ship with a signed packing certificate commits an offence.

(3) A shipowner or his agent or the master shall not take on board a ship any freight container or vehicle with such goods in it without a signed packing certificate unless he has satisfied himself otherwise that the freight container or vehicle has been packed in accordance with the IMDG Code.

(4) A shipowner or his agent or a master who fails to comply with subsection (3) commits an offence.
(Enacted 1994)

SECT 10

List, manifest or stowage plan VerDate:30/06/1997

(1) The master of a 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 section 8(2) and their weight or volume; and

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

(2) The information required by subsection (1) may be contained in one 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)(a) Before a ship, carrying marine pollutants, departs from a port, the shipowner and master shall arrange for a copy of any such list, manifest or stowage plan of marine pollutants to be kept on shore and it shall be the duty of the shipowner to retain it there until the goods are discharged from the ship or for a period of 6 months from loading in the case of such goods not being discharged within that time.

(b) A copy of the list, manifest or stowage plan referred to in subsection (1) shall be submitted to the Director before departure.

(4)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.

(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)A master of a ship carrying packaged goods who 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 subsection (5) commits an offence.

(7)If there is any breach of subsection (3) the shipowner and master commit an offence.
(Enacted 1994)

SECT 11

Packaging of dangerous goods and marine pollutants VerDate:30/06/1997

(1)The packaging of packaged goods shall be in accordance with the IMDG Code. Such packaging shall, if required by the IMDG Code, be performance tested as specified in the Code.

(2)Packaged goods shall not be taken on board any ship for carriage in that ship if the shipowner or master knows or ought to know that the goods are not packaged in such a manner as to withstand the ordinary risk of carriage by sea.

(3)A shipowner or master or shipper of such goods who fails to comply with the provisions of this section commits an offence.
(Enacted 1994)

SECT 12

Marking and labelling VerDate:30/06/1997

(1)Dangerous goods or marine pollutants which are contained in a package shall not be taken on board a ship for carriage in that ship unless the conditions in this section are satisfied.

(2)(a) Packages containing dangerous goods or marine pollutants shall be durably marked in accordance with the IMDG Code.

(b) Packages containing dangerous goods or marine pollutants shall be provided with labels or stencils of labels or placards where specified in the IMDG Code.

(c) The method of marking the correct technical name and of affixing labels or applying stencils of labels or placards on packages containing dangerous goods or marine pollutants shall be such that the information marked, affixed or applied will remain legible after the package has been immersed for 3 months in the sea or, if the package itself disintegrates before the end of that period, for as long as the package will last. Where the outer material of the package is such that it

will not survive at least 3 months' immersion in the sea, any inner receptacles which will survive such immersion shall be durably marked with an indication of the nature of the danger to which the goods give rise, which indication may be given by any suitable means including (but not restricted to) an IMDG Code Class symbol or marine pollutant mark, or both, of an appropriate size.

(d) Without prejudice to the above requirements, where the goods are contained in a freight container, vehicle, portable tank or tank container, the cargo transport unit in which the goods are contained shall bear conspicuously on its exterior distinctive placards or other appropriate marking, in accordance with the IMDG Code.

(3) Any breach of the requirement of this section relating to the marking, labelling or placarding of packaged goods shall be an offence on the part of the shipper of those goods.

(4) A shipowner or master who accepts dangerous goods or marine pollutants to be taken on board a ship in any package which has not been marked and labelled, or placarded as provided for in this section commits an offence.

(Enacted 1994)

SECT 13

Stowage VerDate:30/06/1997

PART III

STOWAGE AND CARRIAGE

(1) Packaged goods taken on board any ship for carriage in that ship shall be stowed, segregated and secured in accordance with the IMDG Code.

(2) Where packaged goods are shipped in or on a vehicle or freight container which was loaded after those goods left the premises or control of the shipper it shall be the duty of the person responsible for loading that vehicle or freight container to ensure that the stowage, segregation, and securing of those goods in the vehicle or freight container is adequate and is in accordance with the IMDG Code.

(3) A shipowner or master or person responsible for packing goods in a freight container or vehicle or for stowing the goods in the ship who fails to comply with the provisions of this section commits an offence.

(Enacted 1994)

SECT 14

Carriage of explosives VerDate:30/06/1997

(1) No explosives which the shipowner or master knows or ought to know present a serious risk when carried in a ship shall be taken on board any ship unless- (L.N. 391 of 1996)

(a) such explosives are stowed in a compartment in which any electrical apparatus and cables are so designed and used as to minimize

the risk of fire or explosion; and

(b) detonators are effectively segregated from all other explosives; and

(c) the stowage and segregation of explosives are in accordance with the IMDG Code; and

(d) where such explosives are required to be stowed in a magazine, such magazine is kept securely closed while the ship is at sea.

(2) A shipowner or master who fails to comply with subsection (1) commits an offence.
(Enacted 1994)

SECT 15

Carriage of packaged dangerous goods in passenger ships VerDate:30/06/1997

(1) Stowage and segregation of all packaged dangerous goods carried aboard a passenger ship shall be in accordance with the IMDG Code.

(2) Explosives in Class 1, division 1.4, compatibility group S may be carried in any amount in passenger ships. No other explosives may be carried in a passenger ship with more than 12 passengers except any one of the following -

(a) explosive articles for life-saving purposes, if the total net explosives weight of such articles does not exceed 50 kg; or

(b) explosives in compatibility groups C, D and E, if the total net explosives weight does not exceed 10 kg; or

(c) explosive articles in compatibility group G other than those requiring special stowage, if the total net explosives weight does not exceed 10 kg; or

(d) explosive articles in compatibility group B, if the total net explosives weight does not exceed 5 kg.

(3) In this section, references to "compatibility groups" (έ...¼çμ,,) and "division" (â†éž) are references to compatibility groups and divisions for explosives indicated in the IMDG Code.

(4) A shipowner or master who fails to comply with this section commits an offence.
(Enacted 1994)

SECT 16

Document of compliance to carry packaged dangerous goods VerDate:30/06/1997

(1) No packaged dangerous goods shall be taken on board any ship the keel of which was laid or which was at a similar stage of construction on or after 1 September 1984 unless it has on board a document of compliance, issued by or on behalf of the Director or the competent authority of the country in which it is registered, that the spaces in

which the packaged dangerous goods are to be carried comply with the provisions of regulation 143 of the Merchant Shipping (Safety) (Fire Protection) (Ships Built On or After 1 September 1984) Regulations (Cap 369 sub. leg.) appropriate to the classification of those goods intended for stowage in or on that space.

(2)A shipowner or master who fails to comply with this section commits an offence.
(Enacted 1994)

SECT 17

Reporting of incidents involving dangerous goods or marine pollutant VerDate:30/06/1997

(1)When an incident takes place involving the loss or likely loss overboard of packaged dangerous goods into the sea, the master, or other person having charge of the ship, shall report the particulars of such an incident without delay and to the fullest extent possible to the nearest coastal state. The report shall be based on the guidelines and general principles adopted by the IMO by resolution A.648(16).

(2)In the event of a report from such a ship being incomplete or unobtainable the owner shall to the fullest extent practicable make or complete the report required by subsection (1).

(3)In the case of a ship involved in an accident at sea involving an actual or probable discharge of marine pollutant in packaged form from the ship, the reporting of the incident shall be made in accordance with the provision of the Merchant Shipping (Reporting of Pollution Incidents) Regulations (Cap 413 sub. leg.).
(Enacted 1994)

SECT 18

Jettisoning of packaged dangerous goods VerDate:30/06/1997

(1)Packaged dangerous goods shall not be jettisoned, except where necessary for the purposes of securing the safety of the ship or saving life at sea.

(2)A shipowner or master who fails to comply with the provisions of this section commits an offence.
(Enacted 1994)

SECT 19

Carriage in bulk VerDate:30/06/1997

PART IV

CARRIAGE OF DANGEROUS GOODS IN BULK

(1)Where a shipowner or master of a ship knows or ought to know that any dangerous goods cannot safely be carried in bulk to the destination to which they are consigned, he shall ensure that such goods are not loaded in bulk into the ship.

(2)Any shipowner or master of a ship who fails to comply with

subsection (1) commits an offence.

(3) It shall be a defence in proceedings for an offence under this section for the person charged to prove-

(a) that he did not know that the goods could not be safely carried as required by subsection (1);

(b) where the dangerous goods in question are goods listed in Chapter VI of the BCH Code, or in Chapter 17 of the IBC Code, or in Chapter 19 of the IGC Code, or are classified dangerous goods listed in Appendix B of the Bulk Cargoes Code, that they were loaded in accordance with the recommendations of whichever of those Codes was appropriate; or

(c) where the dangerous goods in question consist of a liquid chemical or a liquefied gas which is not listed in the Codes mentioned in paragraph (b), that they were handled and carried in accordance with conditions of carriage approved by the Director.
(Enacted 1994)

SECT 20

Documentation VerDate:30/06/1997

(1) The shipper of any dangerous goods to be carried in bulk shall furnish the shipowner or master of a ship with a notification in writing which shall -

(a) give notice of the nature of the goods and, in the case of liquid goods with a flashpoint at or below 60 °C (closed cup) shall specify the flashpoint of those liquids; and

(b) specify the correct technical name of the goods, their UN number, if any, and, for dangerous goods carried in solid form in bulk, the class listed in section 8(2) to which the goods belong.

(2) The master of a ship carrying in solid form in bulk any dangerous goods listed in Appendix B to the Bulk Cargoes Code shall cause a specific list, manifest or detailed stowage plan to be carried in the ship-

(a) setting out details of the dangerous goods carried in the ship on the voyage on which it is at the time engaged, including the correct technical name of the goods, their classification in accordance with section 8(2) and their weight or quantity, which details shall be obtained from the shipping documents prepared by the shipper;

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

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

(4) The master of a ship shall ensure that a list, manifest or stowage plan and additional special documents referred to in subsections

(2) and (3) shall be kept available on board the ship carrying the dangerous goods for reference or inspection on board the ship until the goods have been discharged from the ship.

(5) Any-

(a) shipper who fails to furnish the shipowner or master with a notification as required in subsection (1) or furnishes a notification which he knows or ought to have known to be false; and

(b) master of a ship who fails to comply with subsection (2), (3) or (4), commits an offence.
(Enacted 1994)

SECT 21

Penalties for offences under Parts II, III and IV VerDate:30/06/1997

PART V

PENALTIES AND DEFENCES

Any person who commits an offence under Part II, III or IV is liable-

(a) on conviction upon indictment to a fine at level 3 and in the case of an individual, to imprisonment for 1 year; and

(b) on summary conviction to a fine at level 3.
(Enacted 1994)

SECT 22

Defences VerDate:05/11/1999

(1) It shall be a defence in any proceedings for an offence under Part II, III or IV that the person charged took all reasonable steps to ensure compliance with this Regulation.

(2) It shall be a defence in any proceedings for an offence under this Regulation-

(a) that the person charged-

(i) neither knew nor ought to have known; or

(ii) had no reasonable grounds to suspect, that the goods were dangerous goods or marine pollutants as the case may be;

(b) that the goods were handled and carried in accordance with the provisions of the IMDG Code where appropriate;

(c) if the person charged is the shipowner 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 furnished the shipowner or master of the ship with a signed packing certificate certifying that the goods had been properly packed in the freight container or vehicle;

(d) that the goods being solid dangerous goods in bulk were being handled and carried in accordance with the Bulk Cargoes Code;

(e) that the goods being liquid chemical or gaseous dangerous goods in bulk were being handled and carried in accordance with the relevant requirements of the BCH Code, the IBC Code or the IGC Code; or

(f) that the goods were being carried in accordance with Merchant Shipping Notices No. 1015, 1016 or 1017 where appropriate. (64 of 1999 s. 3)
(Enacted 1994)

SECT 23

Offences due to fault of another person VerDate:30/06/1997

Where the commission by any person of an offence under Part I, II, III or IV is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.
(Enacted 1994)

SECT 24

Power to detain VerDate:30/06/1997

In any case where a ship does not comply with the requirements of this Regulation the ship shall be liable to be detained under the power conferred by section 117 of the Merchant Shipping (Safety) Ordinance (Cap 369) or section 3 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap 413), as the case may be.
(Enacted 1994)

SECT 25

VerDate:30/06/1997

Omitted as spent)
(Enacted 1994)