

L.N. 333 of 2012

**AUTHORITY FOR TRANSPORT IN MALTA ACT
(CAP. 499)**

**Vessel Traffic Monitoring and Reporting Requirements
(Amendment) Regulations, 2012**

IN exercise of the powers conferred by article 43(1) and (3) of the Authority for Transport in Malta Act, the Minister for Infrastructure, Transport and Communications, in consultation with the Authority for Transport in Malta, has made the following regulations:-

1. (1) The title of these regulations is the Vessel Traffic Monitoring and Reporting Requirements (Amendment) Regulations, 2012 and they shall be read and construed as one with the Vessel Traffic Monitoring and Reporting Requirements Regulations, hereinafter referred to as "the principal regulations".

Citation and
commencement.
S.L. 499.34.

(2) These regulations shall be deemed to have come into force on the 19th of May, 2012.

2. Sub-regulation (1) of regulation 2 of the principal regulations shall be substituted the following:

Amends
regulation 2 of
the principal
regulations.

"(1) The purpose of these regulations is:

(i) to establish, in accordance with the provisions of Directive 2002/59/EC of the European Parliament and of the Council of the 27th June, 2002, as subsequently amended by Directive 2009/17/EC of the European Parliament and of the Council of the 23rd April, 2009 and Directive 2011/15/EU of the European Commission of the 23rd February, 2011, establishing a Community vessel traffic monitoring and information system with a view to enhancing the safety and efficiency of maritime traffic, improving the response of authorities to incidents, accidents or potentially dangerous situations at sea, including search and rescue operations, and contributing to a better prevention and detection of pollution by ships; and

(ii) to transpose the provisions of Directive 2010/65/EU of the European Parliament and of the Council of the 20th October, 2010 on reporting formalities for ships arriving in and or departing from ports of the Member

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States and repealing Directive 2002/6/EC."

Amends
regulation 4 of
the principal
regulations.

3. Regulation 4 of the principal regulations shall be amended as follows:

(a) immediately after the definition "dangerous goods" there shall be added the following new definitions:

" "electronic transmission of data" means the process of transmitting information that has been encoded digitally using a revisable structured format which can be used directly for storage and processing by computers;

"FAL Convention" means the IMO Convention on Facilitation of International Maritime Traffic, adopted on 9th April, 1965 as amended;

"FAL forms" means the standardised forms as provided for in the FAL Convention;"; and

(b) immediately after the definition "related interests" there shall be added the following new definition:

" "reporting formalities" means the information set out in regulation 18 which must be provided for administrative and procedural purposes when a ship arrives in or departs from a port in Malta;".

Substitutes
regulation 18 of
the principal
regulations.

4. For regulation 18 of the principal regulations there shall be substituted the following:

"Maritime
information system,
electronic
transmission and
exchange of data.

18. (1) A maritime information management system shall be established to process the information referred to in these regulations and in the Directives referred to in regulation 2, as amended.

(2) This information management system shall work as a single window. The fulfilment of reporting formalities in electronic format and their transmission via the single window shall take place not later than 1st June, 2015.

(3) The single window shall be the place where all information is reported once and made available to the various national authorities.

(4) Without prejudice to the relevant format set out in the FAL Convention, the electronic format shall comply with the provisions of this regulation:

Provided that the FAL forms shall be accepted for the fulfilment of the reporting formalities;

Provided further that the category of reporting formalities includes the information which shall be provided in accordance with the FAL Convention and other relative international legal instruments and the applicable forms are:

- (i) FAL form 1: General Declaration;
- (ii) FAL form 2: Cargo Declaration;
- (iii) FAL form 3: Ship's Stores Declaration;
- (iv) FAL form 4: Crew's Effects Declaration;
- (v) FAL form 5: Crew List;
- (vi) FAL form 6: Passenger List;
- (vii) FAL form 7: Dangerous Goods; and
- (viii) Maritime Declaration of Health;

Provided further that ships falling with the scope of these regulations and operating between ports situated in the customs territory of the European Union, but which do not come from, call at or are headed towards a port situated outside the territory or a free zone subject to type I controls under customs legislation, are exempt from the obligation of sending the information referred to in the FAL forms listed under these regulations, without prejudice to the applicable legal acts of the European Union and the possibility of a Member State to request the information in such FAL forms which is necessary to protect internal order and security and to enforce customs, fiscal, immigration, environmental or sanitary laws;

Provided further that the information required in accordance with the provisions of an applicable legal act of the European Union and local legislation in force from time to time can only be provided in paper format until 1st June, 2015.

(5) Where reporting formalities are required by an applicable legal act of the European Union and local legislation in force from time to time and to the extent necessary for the good functioning of the single window, the maritime information management system shall be compatible, connectable and interoperable with the SafeSeaNet system adopted by the Commission and, where applicable and through collaboration and cooperation from and with the relevant national authorities, with the computer systems stipulated in Decision No. 70/2008/EC of the European Parliament and of the Council of the 15th January, 2008 on a paperless environment for customs and trade.

(6) The Authority shall cooperate with other competent authorities of other Member States to ensure the interconnection and interoperability of their respective systems and to develop and update SafeSeaNet.

(7) The maritime information management system shall:

(a) ensure that the data exchange is electronic and enable messages notified in accordance with regulation 6(6) to be received and processed;

(b) allow information to be transmitted 24 hours a day; and

(c) upon request, through SafeSeaNet, and if needed for the purpose of maritime safety or security or the protection of the maritime environment, is able to send information on the ship and the dangerous or polluting goods on board to the national and local competent authorities of another Member State without delay.

(8) Furthermore, it shall be ensured that:

(a) the information received in accordance with the reporting formalities provided in an applicable legal acts of the European Union and local legislation in force from time to time is made available in the maritime information system and shall make the relevant parts of such information available to other Member States through such system:

Provided that, unless otherwise provided by these regulations or any other legislation, this does not apply to the information received pursuant to Regulation (EEC) No. 2913/92, Regulation (EEC) No. 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No. 2913.92, Regulation (EC) No. 562/2006 and Regulation (EC) No. 450/2008; and

(b) the information received through the maritime information system is available upon request to the relevant national authorities.

(9) For the purposes of this regulation and regulation 19, "legal act of the European Union" means:

S.L. 499.12.

(a) Directive 2002/59/EC of the European Parliament and of the Council of 27th June, 2002 establishing a Community vessel traffic monitoring and information system as transposed by these regulations and the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations;

S.L. 499.30.

(b) Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15th March, 2006 establishing a Community Code on the rules governing the movement of persons across borders;

(c) Directive 2000/59/EC of the European Parliament and of the Council of 27th November, 2000 on port reception facilities for ship-generated waste and cargo residues as transposed by the Port Reception Facilities for Ship-Generated Wastes and Cargo Residues Regulations;

S.L. 499.35.

(d) Regulation (EC) No. 725/2004 of the European Parliament and of the Council of 31st of March, 2004 on enhancing ship and port facility security as transposed by the Ports Security Regulations; and

(e) Regulation (EEC) No. 2913/92 of 12th October, 1992 establishing the Community Customs Code and Regulation (EC) 450/2008 of the European Parliament and of the Council of 23rd April, 2008 laying down the Community Customs Code (Modernised Customs Code).".

Substitutes
regulation 19 of
the principal
regulations.

5. For regulation 19 of the principal regulations there shall be substituted the following:

"Information.

19. In accordance with all the applicable legal acts of the European Union and local legislation in force from time to time, it shall be ensured that:

(a) all the necessary measures are adopted to ensure the confidentiality of commercial and other confidential information sent pursuant to these regulations;

(b) particular care is taken to protect the commercial data collected according to the provisions of these regulations;

(c) compliance with the requirements of any legal acts of the European Union and local legislation in force from time to time with respect to the protection of personal data is observed at all times; and

(d) such information is used in compliance with these regulations."

