
STATUTORY INSTRUMENTS

1996 No. 3010

**MARINE POLLUTIONMERCHANT SHIPPING
SAFETY**

**The Merchant Shipping (Dangerous or Noxious
Liquid Substances in Bulk) Regulations 1996**

Made - - - - 29th November 1996
Laid before Parliament 10th December 1996
Coming into force - - 1st January 1997

The Secretary of State for Transport after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995⁽¹⁾, in exercise of the powers conferred by—

- (i) article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987⁽²⁾;
 - (ii) article 2 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996⁽³⁾; and
 - (iii) sections 85(1)(a) and (b), (3), (5) to (7) and 86(1) of the said Act of 1995,
- and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996 and shall come into force on 1st January 1997.

(2) The following statutory instruments are hereby revoked—

- (a) the Merchant Shipping (IBC Code) Regulations 1987⁽⁴⁾;
- (b) the Merchant Shipping (BCH Code) Regulations 1987⁽⁵⁾;

(1) 1995 c. 21.

(2) S.I.1987/470 amended by S.I. 1990/2595; the effect of the Order is extended by the Merchant Shipping Act 1995, section 128(6) so as to authorise the making of regulations for the purpose of giving effect to an agreement which provides for the modification of certain descriptions of agreement. The agreement relevant to these Regulations which modifies an agreement of the description mentioned is Resolution MEPC 55(33) adopting amendments to the IBC Code (mentioned in Annex II to the International Convention for the Prevention of Pollution from Ships 1973 and its Protocol of 1978).

(3) S.I. 1996/282.

(4) S.I. 1987/549.

(5) S.I. 1987/550.

- (c) the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987(6);
- (d) the Merchant Shipping (IBC Code) (Amendment) Regulations 1990(7);
- (e) the Merchant Shipping (BCH Code) (Amendment) Regulations 1990(8);
- (f) the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulations 1990(9);
- (g) the Merchant Shipping (IBC Code) (Amendment) Regulations 1994(10);
- (h) the Merchant Shipping (BCH Code) (Amendment) Regulations 1994(11); and
- (i) the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulations 1994(12).

Interpretation

2.—(1) In these Regulations and in Merchant Shipping Notice No NLS 1—

“Annex II” means Annex II of the MARPOL Convention (which sets out regulations for the control of pollution by noxious liquid substances)(13);

“appropriate Certificate” means the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk, the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk as the case may be;

“appropriate Regulation” means the BCH Code, the IBC Code or Merchant Shipping Notice No NLS 1;

“BCH Code” means the 1993 Edition of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk published by the International Maritime Organization;

“BCH Code Certificate” means a certificate of compliance with the BCH Code;

“Cargo Ship Safety Construction Certificate”, “Cargo Ship Safety Equipment Certificate”, “Cargo Ship Safety Radiotelegraphy Certificate” and “Cargo Ship Safety Radiotelephony Certificate” means respectively the certificates so entitled issued in accordance with the SOLAS Convention;

“Category A substance”, “Category B substance”, “Category C substance” and “Category D substance” mean respectively any substance listed and identified as falling into Category A, B, C, or D in column “c” in Chapter 17 and Chapter 18 of the IBC Code; and any substance which is provisionally assessed as a Category A, B, C or D substance; and a reference to any such substance shall include a reference to any mixture containing such substance;

“controlled waters” means the waters designated as controlled waters by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996(14);

“Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk” means, in relation to a United Kingdom ship, a certificate issued pursuant to regulation 9 and, in relation to any other ship, a certificate issued in accordance with Chapter 1 of the BCH Code by or on behalf of the government of the State in which the ship is registered;

(6) S.I. 1987/551.

(7) S.I. 1990/2602.

(8) S.I. 1990/2603.

(9) S.I. 1990/2604.

(10) S.I. 1994/2082.

(11) S.I. 1994/2084.

(12) S.I. 1994/2083.

(13) Annex II was amended by amendments adopted by the IMO in 1985, 1989, 1992 and 1994.

(14) S.I. 1996/2128.

“chemical tanker” means a self-propelled cargo ship constructed or adapted and used for the carriage in bulk of any liquid substance listed in Chapter 17 of the IBC Code but does not include an offshore support vessel or a dry cargo ship with deep tanks;

“constructed” means the date when the keel of a ship is laid or the building is at a similar stage of construction; and “similar stage of construction” means the stage at which—

- (a) construction identifiable with a specific ship begins; and
- (b) assembly of that ship has commenced, comprising at least 50 tonnes of 1 per cent. of the estimated mass of all structural material, whichever is the less;

“dangerous substance” means a substance listed in Chapter 17 of the IBC Code having against it in column “d” an entry “S”;

“IBC Code” means the 1994 Edition of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk published by the International Maritime Organization;

“IBC Code Certificate” means a certificate of compliance with the IBC Code;

“IGC Code” means the 1993 Edition of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, published by the International Maritime Organization;

“in bulk” means directly and without intermediate form of containment in a tank forming an integral part of, or permanently located in or on, a ship;

“International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk” means, in relation to a United Kingdom ship, a certificate issued pursuant to regulation 9 and, in relation to any other ship, a certificate issued in accordance with Chapter 1 of the IBC Code by or on behalf of the government of the State in which the ship is registered;

“INLS Certificate” means an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under Annex II and, in the case of a United Kingdom ship, in accordance with regulation 9 in the form set out in Annex II;

“IMO” means the International Maritime Organization;

“IMO Standards” means the Standards for Procedures and Arrangements for the Discharge of Noxious Liquid Substances adopted by the Marine Environment Protection Committee of the International Maritime Organisation by Resolution MEPC 18(22) on 5th December 1985;

“IOPP Certificate” means an International Oil Pollution Prevention Certificate issued in accordance with Annex I of the MARPOL Convention and, in the case of a United Kingdom Ship pursuant to the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996(15);

“Merchant Shipping Notice” means a Notice described as such and issued by the Marine Safety Agency, an executive agency of the Department of Transport;

“MEPC Circular” means a circular of that description issued by the Marine Environment Protection Committee of the International Maritime Organisation;

“non-polluting substance” means a substance listed in Chapter 17 or 18 of the IBC Code having against it in column “c” the entry III;

“noxious liquid substance” means a substance listed as such in either MEPC Circular 2/CIRC.1 or a Category A, B, C or D substance;

“oil-like substance” means a substance listed as such in MEPC Circular 2/CIRC.1 or provisionally assessed as an oil-like substance;

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes a combination carrier when it is carrying a cargo or part cargo of oil in bulk;

“pollution hazard substance” means a substance listed in Chapter 17 of the IBC Code having against it in column “d” an entry “P”;

“provisionally assessed” means, in relation to a substance of a particular category or a non-polluting substance or an oil-like substance, listed as such in MEPC Circular 2/CIRC.1 and there-in identified as a substance falling into that category or as a non-polluting substance or as an oil-like substance as the case may be;

“residual mixture” means, in relation to any category of noxious liquid substances, ballast water, tank washings or other mixtures containing residues of a noxious liquid substance of such category, but excludes clean ballast;

“ship” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, hovercraft, submersibles and floating craft and also fixed or floating platforms except when they are actually engaged in exploration or exploitation of the sea-bed or associated offshore processing of sea-bed mineral resources;

“the MARPOL Convention” means the International Convention for the Prevention of Pollution from Ships, 1973, as amended⁽¹⁶⁾;

“the SOLAS Convention” means the International Convention for the Safety of Life at Sea, 1974, as amended⁽¹⁷⁾;

“tripartite agreement” means an agreement between Administrations for the carriage of unassessed liquid substances in accordance with MEPC Circular 265;

“UKOPP Certificate” means a United Kingdom Oil Pollution Prevention Certificate issued pursuant to the Merchant Shipping (Prevention of Pollution) Regulations 1996;

“unassessed liquid substance” means a liquid substance which is neither a noxious liquid substance nor a non-polluting substance and is not oil as defined in the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996;

(2) Any reference in these Regulations to any of the following—

- (a) the BCH Code;
- (b) the IBC Code;
- (c) the IGC Code;
- (d) an MEPC Circular;
- (e) the MARPOL Convention;
- (f) the SOLAS Convention; and
- (g) a Merchant Shipping Notice;

shall include a reference to any document amending it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice.

(3) In interpreting the IBC Code and the BCH Code—

- (a) the provisions of the BCH Code and IBC Code having been made mandatory under regulation 4(2) and (3) respectively the language thereof shall be construed accordingly;
- (b) references to the Administration shall, in relation to United Kingdom ships, be references to the Secretary of State; and references to the Port Administration shall in relation to all ships in United Kingdom national waters be references to the Secretary of State;
- (c) any reference to the 1974 SOLAS Convention shall be a reference to the SOLAS Convention as defined in these Regulations.

⁽¹⁶⁾ Cmnd. 5748; amended by the Protocol of 1978 (Cmnd. 7347) and by amendments adopted by IMO in 1983, 1985, 1989, 1992 and 1994.

⁽¹⁷⁾ Cmnd. 7874; amended by the Protocol of 1978 (Cmnd. 7346) and by amendments adopted by IMO in 1981, 1983, 1988, 1989, 1990, 1991 and 1994.

- (4) (a) In these Regulations—
 - (i) a reference to a numbered regulation is, unless otherwise stated, a reference to the regulation of that number in these Regulations; and
 - (ii) a reference to a numbered paragraph is, unless otherwise stated, a reference to the paragraph of that number in that regulation.
- (b) Any approval given in pursuant to these Regulations shall be given in writing and shall specify the date when it is to come into force and the conditions (if any) on which it is given.

Application

- 3. (1) (a) Subject to subparagraph (b), these Regulations apply to—
 - (i) all ships carrying in bulk noxious liquid substances or unassessed liquid substances;
 - (ii) all chemical tankers carrying dangerous substances in bulk; and
 - (iii) all oil tankers carrying pollution hazard substances in bulk.
- (b) These Regulations apply to ships which are—
 - (i) United Kingdom ships, wherever they may be;
 - (ii) other ships—
 - (aa) while they are within United Kingdom waters; or
 - (bb) in relation to regulation 5 so far as it relates to the discharge or washing of tanks which have carried noxious liquid substances or pollution hazard substances, and subject to regulations 15 and 16, while they are in controlled waters or any other waters which are sea.
- (2) In the case of a ship registered in a State which is not a Party to the SOLAS or to the MARPOL Conventions, these Regulations (except for regulations 5, 14, 16 and 17) shall not apply by reason of being in United Kingdom waters if it would not have been there but for stress of weather or any circumstances which could not have been prevented by the owner, the master or the charterer (if any).

Construction, equipment and operation

- 4.—(1) Every ship carrying in bulk noxious liquid substances or unassessed liquid substances shall comply with the provisions of Schedule 1 of Merchant Shipping Notice NLS No 1.
- (2) Except as provided for in paragraph (3)(b) and (c) chemical tankers constructed before 1st July 1986 shall be constructed, fitted, equipped, arranged and operated in accordance with those requirements of the BCH Code relevant to it.
- (3) Every ship specified in subparagraphs (a), (b) or (c) shall be constructed, equipped and operated in accordance with those requirements of the IBC Code relevant to it—
 - (a) chemical tankers constructed on or after 1st July 1986;
 - (b) ships converted to being chemical tankers on or after that date except oil tankers—
 - (i) which were built before that date;
 - (ii) which are converted for the purpose of carrying pollution hazard substances only;
 - (iii) the conversion of which consists only of modifications necessary for compliance with Chapter VA of the BCH Code; and
 - (c) (to the extent that the Secretary of State considers reasonable and practicable) chemical tankers which were constructed before 1st July 1986, but undergo repairs, alterations and modifications of a major character on or after, that date.

(4) Where a chemical tanker is constructed or adapted to carry substances listed in Chapter 19 of the IGC Code (whether or not such substances are listed in Chapter 17 of the IBC Code) then, to the extent that the requirements of the IBC and IGC Codes are inconsistent, the requirements of the IGC Code shall prevail.

(5) In every chemical tanker constructed on or after 1st July 1986 the pumping and piping arrangements serving any tank designated for the carriage of a Category B substance or a Category C substance shall be such that they comply with Schedule 1 in Merchant Shipping Notice No NLS 1.

Discharge of cargo tanks

- (a) (a) The discharge of any noxious liquid substance into the sea is prohibited, except where permitted by Schedule 2 in Merchant Shipping Notice No NLS 1.
- (b) Tanks shall be washed, or prewashed, and the tank washings shall be dealt with, as prescribed in Schedule 2 in Merchant Shipping Notice No NLS 1.

Loading and carriage in bulk of dangerous or noxious liquid substances

6. No ship shall load in bulk, or carry in bulk, any dangerous or noxious liquid substances or substances subject to a tripartite agreement unless—

- (a) (i) there is in force in respect of that ship a valid INLS Certificate, a BCH Code Certificate, an IBC Code Certificate or an appropriate Certificate covering the substance in question; and
 - (ii) the loading and carriage of that substance is in accordance with the terms of that Certificate; or
- (b) (i) either the Secretary of State or the government of a State Party to the SOLAS or MARPOL Conventions has given written permission for its carriage; and
 - (ii) any conditions subject to which that permission was given are complied with; or
- (c) if the substance is an oil-like substance—
 - (i) there is in force in respect of the ship a valid IOPP Certificate or a UKOPP Certificate suitably endorsed for the substance in question;
 - (ii) the loading and carriage of that substance is in accordance with the terms of that certificate; and
 - (iii) if of Category C or D it is handled and carried in accordance with Schedule 3 in Merchant Shipping Notice No NLS 1.

Procedures and Arrangements Manual

7.—(1) Every ship carrying noxious liquid substances shall be provided with a Procedures and Arrangements Manual complying with IMO Standards.

(2) Such a manual shall be approved, in the case of a United Kingdom ship, by the Secretary of State or, in the case of a ship registered in a State Party to the MARPOL Convention by or on behalf of the government of that State.

(3) The Procedures and Arrangements Manual shall be kept on board the ship in such a place as to be readily available for inspection.

(4) The Procedures and Arrangements Manual shall, in the case of a United Kingdom ship, be in English and, in the case of any other ship, be in, or include a translation into English or French.

Cargo Record Book

8.—(1) Every ship carrying noxious liquid substances shall be provided with a Cargo Record Book in the form specified in Annex II.

(2) Whenever any of the following operations takes place in respect of any noxious liquid substance a record of the operation shall be made in the Cargo Record Book in relation to each tank affected by the operation—

- (a) loading of cargo;
- (b) internal transfer of cargo;
- (c) unloading of cargo;
- (d) cleaning of cargo tanks;
- (e) ballasting of cargo tanks;
- (f) discharge of ballast from cargo tanks;
- (g) disposal of residues to reception facilities;
- (h) discharge of residues into the sea in accordance with Schedule 2 in Merchant Shipping Notice No NLS 1;
- (i) removal of residues by ventilation.

(3) In the event that any emergency discharge of the kind referred to in paragraph 15 of Schedule 2 in Merchant Shipping Notice No. NLS 1 of any noxious liquid substance or mixture containing such a substance is made or occurs, an entry shall be made without delay in the Cargo Record Book stating the circumstances of, and the reason for, the discharge.

(4) The entries in the Cargo Record Book, in the case of a United Kingdom ship shall be in English and, in the case of any other ship in the official language of the State in which the ship is registered and, where that language is neither English nor French, in English or French. Each entry shall be signed by the officer or officers in charge of the operation and each page shall be signed by the master.

(5) The Cargo Record Book shall be kept in such a place as to be readily available for inspection and, except in the case of unmanned ships under tow, shall be kept on board the ship. It shall be retained on board the ship for a period of three years after the last entry in it has been made.

Survey requirements

9.—(1) The structure, equipment, systems, fittings, arrangements and materials (other than items in respect of which a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Radiotelegraphy Certificate or a Cargo Ship Safety Radiotelephony Certificate is issued) of a ship to which these Regulations apply shall be subjected to the following surveys—

- (a) an initial survey before the appropriate Certificate is issued for the first time, which shall include a complete examination of its structure, equipment, systems, fittings, arrangements and materials in so far as the ship is covered by the appropriate Regulation; an initial survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and materials comply with the applicable provisions of the appropriate Regulation;
- (b) a periodical survey at intervals not exceeding five years which shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and materials comply with the applicable provisions of the appropriate Regulation;
- (c) a minimum of one intermediate survey during the period of validity of the appropriate Certificate; in cases where only one such intermediate survey is carried out in any one certificate validity period, it shall be held not before six months prior to, nor later than six

months after, the half-way date of the certificate's period of validity; intermediate surveys shall be such as to ensure that the equipment and associated pumps and piping systems comply with the applicable provisions of the appropriate Regulation and are in good working order; and shall be so endorsed by the surveyor on the appropriate Certificate;

- (d) an annual survey within three months before or after the anniversary date of the appropriate Certificate which shall include a general examination to ensure that the structure equipment, systems, fittings, arrangements and materials remain in all respects satisfactory for the service for which the ship is intended, and shall be so endorsed by the surveyor on the appropriate Certificate;
- (e) an additional survey, either general or partial according to the circumstances, shall be made when it has been determined under regulation 11(1)(c) to be necessary, or whenever any important repairs or renewals are made; such a survey shall ensure that the necessary repairs or renewals have been effectively made, that the materials and workmanship of such repairs or renewals are satisfactory, and that the ship is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment; a record of such survey shall be endorsed by the surveyor on the appropriate Certificate, stating that on completion of the survey the ship complied with the relevant provisions of appropriate Regulation.

(2) Every such survey in the case of a United Kingdom ship shall be carried out by a surveyor appointed by the Secretary of State.

Issue of Appropriate Certificate

10.—(1) Upon satisfactory completion of an initial or periodical survey by a Surveyor appointed by the Secretary of State, the Secretary of State shall issue to a ship which complies with the relevant Regulations—

- (a) in the case of a chemical tanker—
 - (i) a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk; or
 - (ii) an International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk; and
- (b) in the case of any other ship—
 - (i) an INLS Certificate;

and any such certificate shall be issued for a period not exceeding 5 years from the date of issue.

(2) A Certificate shall cease to be valid—

- (a) if any survey required by regulation 9(1)(c) or (d) is not completed within the period specified for that survey; or
- (b) if any survey required by regulation 9(1)(e) is not completed within such reasonable time as the surveyor may specify; or
- (c) upon transfer of the ship to a registry in another State.

(3) In either of the cases specified in subparagraph (2)(a) or (b) the owner shall deliver up the certificate issued in relation to the ship to the Secretary of State on demand.

(4) In the case of a ship which has transferred from a registry in another State Party to the Convention to registry in the United Kingdom and the Secretary of State is satisfied that—

- (a) the ship has been subjected to a satisfactory initial or periodical survey and to any intermediate, annual or additional surveys required;
- (b) the ship was issued by or on behalf of the government of that other State with an appropriate Certificate which would, but for the change of registry, have remained valid;

- (c) the condition of the ship and its equipment has been maintained in conformity with the provisions of these Regulations; and
- (d) since completion of the surveys referred to in subparagraph (a) no change has been made in the structure, equipment, systems, fittings, arrangements and materials covered by those surveys without the sanction of the government of that other State except by direct replacement;

the Secretary of State may, subject to such requirement as to survey or otherwise as he may think fit and notwithstanding the provisions of regulation 9(2), issue to that ship an appropriate Certificate for a period to be determined by the Secretary of State, but expiring not later than the expiry date of the certificate referred to in subparagraph (b).

(5) The appropriate Certificate shall be kept on board the ship and shall be available for inspection at all reasonable times.

Responsibilities of owner and master

11.—(1) The owner and master of every ship to which this regulation applies shall ensure that—

- (a) the condition of the ship and its equipment shall be maintained so as to conform to the appropriate Regulations;
- (b) after any survey of the ship required by these Regulations has been completed, no material change shall be made to the structure, equipment, fittings, arrangements and materials which were subject to the survey, without the approval of the Secretary of State except by direct replacement;
- (c) whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety or integrity of the ship, the safety of the crew or the efficiency or completeness of the equipment required by these Regulations—
 - (i) it shall be reported at the earliest opportunity to the Secretary of State;
 - (ii) if a United Kingdom ship is in a port outside the United Kingdom it is also reported immediately to the appropriate authority of the country in which the port is situated.

(2) Whenever an accident or defect is reported to the Secretary of State under subparagraph (c), the Secretary of State shall cause investigations to be initiated to determine whether a survey by a surveyor is necessary and shall, if appropriate, require such a survey to be carried out.

(3) This regulation applied to—

- (i) United Kingdom ships; and
- (ii) except as regards subparagraph (1)(a) above, other ships which have been surveyed pursuant to these Regulations.

Equivalents

12.—(1) Where a regulation requires that a particular fitting, material, appliance, apparatus, item of equipment or type thereof should be fitted or carried in a ship, or that any particular provision should be made, or any procedure or arrangement should be complied with, the Secretary of State shall allow any other fitting, material, appliance, apparatus, item of equipment or type thereof to be fitted or carried, or any other provision, procedure or arrangement to be made in that ship, if he is satisfied by trial thereof or otherwise that such fitting, material, appliance, apparatus, item of equipment or type thereof, or that any particular provision, procedure or arrangement is at least as effective as that required by the appropriate Regulations.

(2) The results of tests and certificates relating to them, carried out by an inspection and control body or a laboratory which is officially recognised in another member State of the European

Community, offering independent and professional technical guarantees which are suitable and satisfactory shall be considered equivalent.

Exemptions

13. The Secretary of State may exempt any ship or class or description of ship from any of the requirements of these Regulations, subject to such conditions as he may specify, and may alter or cancel any exemption so granted.

Penalties

14.—(1) If there is any contravention of these Regulations the owner and master of the ship shall each be guilty of 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 with an offence under these Regulations to prove that he took all reasonable steps to ensure that the regulations in question were complied with.

Inspection and detention

15.—(1) A ship to which these Regulations apply shall be subject in any United Kingdom port to inspection by persons appointed by the Secretary of State.

(2) The inspector may investigate any operation regulated by these Regulations if there are clear grounds for believing that the master or crew are not familiar with essential ship board procedures for preventing pollution by a substance referred to in regulation 3(1)(a). In the event of any such inspection revealing deficiencies the inspector shall take such steps as he may consider necessary to ensure that the ship will not sail until the situation has been brought to order.

(3) (a) In any case where a ship does not comply with these Regulations the ship shall be liable to be detained.

(b) Where the steps taken by an inspector under paragraph (2) involve detention of the ship, or in the event of detention under this paragraph, then section 284 of the Merchant Shipping Act 1995 (which relates to the detention of a ship) shall have effect in relation to the ship, subject to the modifications that as if for the words “this Act” wherever they appear there were substituted the words “the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996”.

(4) Where a ship other than a United Kingdom ship is detained pursuant to subparagraph (3)(a) the Secretary of State shall immediately inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.

Restriction on jurisdiction over offences outside UK limits

16.—(1) No proceedings for an offence of contravening regulation 5 by a ship which is not a United Kingdom ship, which relates to a discharge in the internal waters, territorial waters or exclusive zone of another State shall be instituted unless—

- (a) that State, the Flag State or a State damaged or threatened by the discharge requests that proceedings be taken; or
- (b) the discharge has caused or is likely to cause pollution in the internal waters, territorial sea or controlled waters of the United Kingdom.

(2) Where proceedings for an offence of contravening regulation 5 by a ship which is not a United Kingdom ship which relates to a discharge in the internal waters, territorial sea or exclusive economic zone of another State have been instituted but not concluded, and that State requests suspension of the proceedings, then—

- (a) proceedings shall be suspended;
 - (b) the Secretary of State shall transmit all the evidence and court records and documents relating to the case to that State.
- (3) It shall be a defence to charge of contravening regulation 5 for the defendant to show—
- (a) that the ship is not a United Kingdom ship; and
 - (b) the discharge took place outside United Kingdom waters and controlled waters; and
 - (c) the ship was in a port in the United Kingdom at the time of institution of proceedings by reason only of stress of weather or other reason beyond the control of the master or charterer.

Suspension of proceedings at flag state request

17.—(1) This regulation relates to an alleged offence of contravening regulation 5 by a ship which is not a United Kingdom ship, in relation to a discharge beyond the United Kingdom's territorial sea.

(2) (a) Any proceedings for such an offence shall be suspended if the Court is satisfied that the Flag State has instituted proceedings corresponding to the proceedings in United Kingdom in respect of the discharge, within six months of the institution of proceedings in the United Kingdom.

(b) Subparagraph (a) above does not apply—

- (i) where the discharge resulted in major damage to the United Kingdom; or
- (ii) the Secretary of State certifies that the Flag State has repeatedly disregarded its obligation to enforce effectively the requirements of the Convention in respect of its ships.

(3) Where proceedings instituted by the Flag State have been brought to a conclusion, the suspended proceedings shall be terminated.

Signed by the authority of the Secretary of State for Transport

Department of Transport
29th November 1996

Goschen
Parliamentary Under Secretary of State,

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 replace with some changes the Merchant Shipping (IBC Code) Regulations 1987 (as amended); the Merchant Shipping (BCH Code) Regulations 1987 (as amended) and the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987 (as amended). The consolidation takes into account the 1992 amendments to the IBC Code, BCH Code and Annex II of MARPOL 1973/78 as set out in MEPC Resolutions, MEPC 55(33), which allow port state control inspection of operational requirements.

A number of the detailed technical requirements and specifications are now contained in a Merchant Shipping Notice.

The Regulations apply to ships carrying in bulk dangerous or noxious liquid substances. They apply to United Kingdom ships wherever they may be and to other ships when in United Kingdom waters. In addition the prohibition on discharges of noxious liquid substances or pollution hazard substances and tank washing applies to such other ships when beyond United Kingdom waters (if in waters which are sea), subject to certain limitations on bringing proceedings, or requirements for suspending proceedings, required by the United Nations Law of the Sea Convention 1982 (Cmnd. 8941).

Merchant Shipping Notices are obtainable from Eros Marketing Support Services Ltd, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesley, Surrey KT8 0BN. The SOLAS Convention, the MARPOL Convention, their Protocols and amendments and the Codes and circulars referred to in the Regulations are obtainable from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.