

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,189 of 28th September, 2000



I ASSENT,

DAVID DURIE,

GOVERNOR.

28th September, 2000.



GIBRALTAR

No 10 of 2000

AN ACT to transpose into the law of Gibraltar Council Directive 93/75/EEC as amended by Commission Directives 96/39/EEC and 97/34/EC and Council Directive 98/55 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Merchant Shipping (Carriage of Dangerous or Polluting Goods) Act 2000.

Interpretation.

2.(1) In this Act—

“Captain of the Port” has the meaning given to it in the Port Act;

“dangerous goods” means good classified in the IMDG Code including radioactive materials as referred to in the INF Code, in chapter 17 of the IBC Code or in chapter 19 of the IGC Code;

“discharge” means any release howsoever caused from a vessel and includes escape, disposal, spilling, leaking, pumping, emitting and emptying;

“IBC Code” means the International Maritime Organisation’s International Code for construction and equipment of ships carrying dangerous chemicals in bulk as it was in force on 1st January, 1996;

“IGC Code” means the International Maritime Organization’s International Code for the construction and equipment of ships carrying liquefied gases in bulk as it was in force on 1st January, 1996;

“IMDG Code” means the International Maritime Organisation’s Dangerous Goods Code as it was in force on 1st January, 1996;

“I.M.O.” means the International Maritime Organisation;

“IMO Resolution A 648(16)” means the International Maritime Organisation Resolution 648(16) adopted by the Assembly of that Organization at its sixteenth session on 19 October 1989 and entitled “General principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants” as it was in force on 13th September 1995;

“incident” means damage, failure or breakdown which affects the safety of the ship, failure or breakdown of machinery or equipment which results in impairment of the safety of navigation, including any circumstances when a vessel is “not under command”, or any circumstances at sea which have caused actual damage or poses a threat to a member State’s coastline or related interest, or any other condition which affects the safety of any vessel or persons or which has or may cause damage or discharge into the marine environment;

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

“INF Code” means the IMO Code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships, as it is in force on 1st January, 1998;

“in packaged form” means in an individual package or receptacle including freight container or a portable tank container or tank vehicle or shipborne barge or other cargo unit;

“MARPOL” means the International Convention for the Prevention of Pollution from Ships 1973 with its 1978 Protocol as it was in force on 1st January 1996;

“operator” includes the owner, charterer, manager or agent of the vessel;

“the Port” has the meaning given to it in the Port Act;

“polluting goods” means –

- (a) oils as defined in Annex I to MARPOL;
- (b) noxious liquid substances as defined in Annex II to MARPOL;
- (c) harmful substances as defined in Annex III to MARPOL;

“shipper” means any person by whom or in whose name or on whose behalf a contract of carriage of dangerous or polluting goods by sea has been concluded with a carrier;

“SOLAS” means the Safety of Life at Sea Convention 1974, and its 1978 Protocol, as amended, as in force on 13th September 1993;

“territorial waters” means tidal waters and parts of the sea in or adjacent to Gibraltar as are subject to the dominion of Her Majesty;

“vessel” means any cargo vessel, oil, chemical or gas tanker or passenger vessel bound for or leaving a Community port carrying dangerous or polluting goods in bulk or in packaged form and includes a hovercraft but excludes one of Her Majesty’s Ships or the warship of any member State.

(2) Any reference in this Act to the IBC Code, the IGC Code or the IMDG Code or MARPOL or SOLAS shall include a reference to any document amending it which is considered by the Government to be relevant from time to time and is specified in a Notice published in the Gazette.

Application.

3. Bunkers, stores and equipment for use on board a vessel shall not be regarded as dangerous or polluting goods for the purpose of this Act.

Competent Authority.

4. The Captain of the Port shall be the competent authority for the purpose of Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods.

Control of dangerous or polluting goods on vessels.

5. No vessel carrying dangerous or polluting goods shall enter or leave the Port unless the requirements of this Act have been complied with.

Taking of goods on board.

6.(1) No dangerous or polluting goods shall be taken on board a vessel in the Port unless a declaration has first been delivered by the shipper to—

- (a) the master of that vessel; or

(b) the operator.

(2) The declaration referred to in sub-section (1) shall contain—

- (a) the correct technical names of the dangerous or polluting goods;
- (b) the United Nations (UN) numbers where appropriate in respect of those goods;
- (c) the hazard classes in accordance with the IMDG, IBC and IGC Codes;
- (d) the quantity of the goods; and
- (e) the identification marks on any freight container or portable tanks in which those goods are to be transported.

Duties of operator.

7. The operator shall—

- (a) be responsible for securing the compliance with section 6;
- (b) in the case of a vessel leaving the Port, notify the Captain of the Port before the departure of the vessel of the information listed in Part I of the Schedule to this Act;
- (c) in the case of a vessel coming from a port not located in a Member State and which is bound for the Port or an anchorage in the territorial waters of Gibraltar, notify the Captain of the Port, on his departure from the loading port of all information listed in Part I of the Schedule to this Act.

Duties of Shipper.

8. A shipper shall not offer for carriage or take on board dangerous or polluting goods unless the provisions of this Act have been complied with.

Duties of Captain of the Port.

9. The Captain of the Port shall—

- (a) not permit a vessel to enter or leave the Port unless the requirements of this Act have been met;
- (b) in the event of an action to which section 11 relates make the information notified to him available to the Environmental Agency and to the emergency services, and notify shipping in the territorial waters or the adjacent high seas of that information;
- (c) make available on request to the competent authority of a member State any information notified to him under the provisions of this Act;
- (d) where he is notified under this Act of facts indicating that there is a risk of a hazard being posed to maritime and coastal areas of that member State, inform the competent authority of that member State.

Duties of master.

10. A master of a vessel shall—

- (a) not cause his vessel to leave or enter the Port if it carries dangerous or polluting goods except in accordance with the provisions of this Act;
- (b) make use of pilotage services offered to him in the Port;
- (c) complete a true check list in the form set out in Part II of the Schedule to this Act and make it available to the pilot in the Port for his information and to the Captain of the Port on request.

Duties of a master in an emergency.

11.(1) The master of a vessel involved in an incident or circumstances at sea involving—

- (i) an actual or probable discharge of dangerous or polluting goods resulting or likely to result from damage to the vessel or its equipment, or discharge

made or likely to be made for the purpose of securing the safety of the vessel or saving life at sea; or

- (ii) an actual or potential discharge of dangerous or polluting goods in packaged form from the vessel; or
- (iii) without prejudice to sub-paragraphs (i) and (ii), a threat of damage to the coastline or related interests of Gibraltar;

shall immediately notify the Captain of the Port of the information set out in Part I of the Schedule to this Act.

(2) The requirement in subsection (1) shall be satisfied if the master of the vessel informs the Captain of the Port which competent authority in a member State has been notified of that information.

(3) Notification under this section shall be made—

- (a) in accordance with IMO Resolution A 648(16); and
- (b) at least in all the circumstances set out in that Resolution.

Duties of pilots.

12. Pilots undertaking piloting services in the Port to a vessel shall, upon becoming aware of any defects in the vessel which may endanger navigation or persons or cause damage to property or to the environment, forthwith notify the Captain of the Port.

SCHEDULE

Sections 7(b) and (c),
10(c) and 11(1)

PART I

Information on vessels carrying dangerous or polluting goods

1. Name and call sign of the vessel and, where appropriate, its IMO identification number.
2. Nationality of the vessel.
3. Length and draught of the vessel.
4. Port of destination.
5. Estimated time of arrival at the port of destination or pilot station, as required by the Captain of the Port.
6. Estimated time of departure.
7. Intended route.
8. The correct technical names of the dangerous or polluting goods, the United Nations (UN) numbers where they exist, the IMO hazard classes in accordance with the IMDG, IBC and IGC Codes and, where appropriate, the class of the vessel as defined by the INF Code, the quantities of such goods and their location on board and, if in portable tanks or freight containers, their identification marks.
9. Confirmation that a list or manifest or appropriate loading plan giving details of the dangerous or polluting goods carried and of their location on the vessel is on board.
10. Number of crew on board.

PART II

CHECK LIST FOR VESSELS

A. Vessel identification.

Name of vessel:	Owner:	Year built:
.....		

Flag:	Gross tonnage:
.....	

Port of registry:	Length overall:
.....	

Distinctive letters or numbers (Call sign):	IMO identification number, where appropriate:
.....	

Classification society:	Sea areas in which the ship is certified to operate:
.....	

Class notation:	Hull:	Machinery:
.....		

Propulsion machinery:	Output:
.....	

Agent:
.....

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Draught:	Forward:	Amidships:	Aft:
.....			

Volume/mass of dangerous or
polluting cargo:

.....

B. Safety Installations aboard.

**In good
working order**

Yes

No

Deficiencies

*1. Construction and
technical equipment*

Main and auxiliary engines	☐	☐	.....
Main steering gear	☐	☐	.....
Auxilliary steering gear	☐	☐	.....
Anchor gear	☐	☐	.....
Fixed fire-extinguishing system	☐	☐	.....
Inert gas system (if applicable)	☐	☐	.....

2. Navigational equipment

Manoeuvring characteristics available	☐	☐	
First radar installation	☐	☐	

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Second radar installation	☐	☐	
Gyro compass	☐	☐	
Standard magnetic compass	☐	☐	
Radio direction-finding apparatus	☐	☐	
Echo-sounding device	☐	☐	.....
Other electronic position-fixing aids	☐	☐	.....
Equipment for measuring speed and distance (log)	☐	☐	.....
– Speed through the water	☐	☐	.....
– Speed over ground	☐	☐	.....
<i>3. Radio equipment</i>			
Radiotelegraphy equipment	☐	☐	.....
Radiotelephony equipment	☐	☐	.....
GMDSS radio equipment	☐	☐	.....
Radio equipment for life-saving appliances	☐	☐	.....

C. Documents

	Certificates/Documents valid on board		
	Yes	No	Remarks
International Tonnage	☐	☐	

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Certificate (1969)

Passenger Ship Safety Certificate	☐	☐	
Cargo Ship Safety Certificate	☐	☐	
Cargo Ship Safety Construction Certificate	☐	☐	.....
Cargo Ship Safety Equipment Certificate	☐	☐	.....
Cargo Ship Safety Radio Certificate	☐	☐	.....
Cargo Ship Safety Radiotelegraphy Certificate ¹	☐	☐	.....
Cargo Ship Safety Radiotelephony Certificate ²	☐	☐	.....
Exemption Certificate (SOLAS)	☐	☐	.....
International Load Line Certificate	☐	☐	.....
International Load Line Exemption Certificate	☐	☐	.....
Class Certificate	☐	☐	.....

¹ These certificates are relevant only for ships constructed before 1 February 1995

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Certificate of insurance or other financial security in respect of civil liability for oil pollution damage	☐	☐	
Document of compliance with the special requirements for ships carrying dangerous goods (SOLAS)	☐	☐	.....
Oil/Cargo Record Book filled in (International)	☐	☐	.....
(International) Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk	☐	☐	.....
(International) Certificate of Fitness for the Carriage of Liquefied Gases in Bulk	☐	☐	.....
International Oil Pollution Prevention Certificate (IOPP certificate)	☐	☐	.....
International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (NLS Certificate)	☐	☐	.....
High-Speed Craft Safety Certificate	☐	☐	
Permit to operate High-Speed Craft	☐	☐	

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Dangerous goods stowage plan	☐	☐	
Stability information	☐	☐	
Minimum safe manning document	☐	☐	
Copy of the Document of Compliance (ISM Code)	☐	☐	.....
Safety Management Certificate (ISM Code)	☐	☐	.....

D. Officers and ratings.

	Certificate of competency (detailed description and serial number)		Issued by (issuing authority)	At (place/ country)	GMDSS ³
	Yes	No			
Master	☐	☐			☐
Chief mate	☐	☐			☐
Second mate	☐	☐			☐
Third mate	☐	☐			☐
Chief Engineer	☐	☐			☐
First engineer officer	☐	☐			☐
Second engineer officer	☐	☐			☐
Third engineer officer	☐	☐			☐

³Mark if holder of a GMDSS operator's certificate.

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Radio operator

☐☐

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☐

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	Deck	Engine room
Total number of ratings		
Deep-sea pilot taken aboard	Yes No ☐ ☐	

..... Date	 Signature of the master or, if he is indisposed, of the deputy.
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Passed by the Gibraltar House of Assembly on the 12th day of September, 2000.

D.J. REYES,
Clerk to the Assembly.

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