



Department of Economic Development

Isle of Man Ship Registry

Consultation:

Proposed Update to Legislation Implementing

MARPOL Annex III, MARPOL Protocol I & SOLAS VII

The Isle of Man Ship Registry intends to make new legislation to give effect to the revised Annex III to the MARPOL Convention and to the latest versions of Protocol I to the MARPOL Convention and Chapter VII to the SOLAS Convention.

Please examine the proposed implementation in this paper and if you have any comments please send them (preferably by email) to:

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This consultation will close at 5.00pm on 20th January 2015.

Introduction

The new legislation will revoke the previous Isle of Man legislation implementing provisions of MARPOL Annex III, MARPOL Protocol I and SOLAS VII. The proposed requirements for the carriage of harmful substances, for reporting on incidents involving harmful substances and for the carriage of dangerous goods are set out in the following 3 sections.

Merchant Shipping (MARPOL Annex III – Prevention of Pollution by Harmful Substances) Order 2015

This Order will give effect to the revised Annex III to the MARPOL Convention, including all amendments made to that Annex up to and including those adopted by the IMO resolution MEPC.193(61) on 1 October 2010 and which came into force on 1 January 2014.

The revised MARPOL Annex III implements relevant parts of the latest version of the International Maritime Dangerous Goods (IMDG) Code, 2012 edition, up to and including Amendment 36-12 adopted by the IMO Resolution MSC.328(90), which entered into force on 1 January 2014.

1. Application

The Order will apply to a Manx ship carrying harmful substances in packaged form wherever it may be and to a fixed or floating platform engaged in exploration and exploitation of the sea-bed and subsoil within Manx territorial waters. A foreign ship in Manx territorial waters will be prohibited from carrying harmful substances, except in accordance with the provisions of MARPOL Annex III.

2. Prevention of pollution by harmful substances

Harmful substances are those identified as marine pollutants in the IMDG Code or which meet the criteria in the Appendix to this Paper.

Packaging, marking and labelling of harmful substances must be in accordance with the relevant provisions of the IMDG Code and must be adequate to minimise the hazard to the marine environment, having regard to their specific contents.

Documentation relating to the carriage of harmful substances must be in accordance with the requirements of the IMDG Code. A copy of the transport information relating to the carriage of those substances must be made available to the person or organisation designated by the port State authority.

Harmful substances must be properly stowed and secured so as to minimise the hazards to the marine environment without impairing the safety of the ship and persons on board.

Certain harmful substances are prohibited for carriage or limited as to the quantity which may be carried aboard any one ship in accordance with the IMDG Code.

3. Operator's Responsibility

The operator will be responsible for ensuring a ship complies with the requirements of the Order. Contravention of the Order will be an offence, although it is a defence for a person charged under the Order to show that all reasonable steps were taken to avoid the commission of the offence.

If the offence is due to the act or default of someone other than the operator, then the other person may be charged with and convicted of the offence whether or not proceedings are taken against the operator.

"Operator" is defined as "the person registered as the owner of a Manx ship in accordance with the Merchant Shipping Registration Act 1991 or Part 3 of the Harbours Act 2010, or any other person who has assumed responsibility for the operation of the ship from the owner and who on assuming that responsibility has agreed to take over all the duties and responsibilities imposed by the MARPOL Convention.

Merchant Shipping (MARPOL Protocol I – Reports on Incidents Involving Harmful Substances) Order 2015

This Order will give effect to Protocol I to the MARPOL Convention up to and including all amendments made by IMO Resolution MEPC.68(38), which came into force on 1 January 1998.

1. Application

The Order will apply to all Manx ships wherever they may be and to foreign ships while they are within the territorial waters of the Isle of Man.

2. Reporting requirements

The master or other person having charge of a ship will be required to report the particulars of certain incidents without delay and to the fullest extent possible in accordance with the provisions of Protocol I. If the ship is abandoned, or if a report from the ship is incomplete or unobtainable, the owner, charterer, manager or operator of the ship, or their agent, or foreign ship operator must, to the fullest extent possible, assume the obligations placed upon the master to report.

Reports must be made if an incident involves any of the following -

- a discharge above the permitted level or probable discharge of oil or noxious liquid substances for whatever reason including those for the purpose of securing the safety of the ship or saving life at sea;

- a discharge or probable discharge of harmful substances in packaged form, including those in freight containers, portable tanks, road and rail vehicles and shipborne barges;
- damage, failure or breakdown of a ship of 15 metres in length or above which –
 - affects the safety of the ship, including but not limited to collision, grounding, fire, explosion, structural failure, flooding and cargo shifting; or
 - results in the impairment of the safety of navigation including, but not limited to failure or breakdown of steering gear, propulsion plant, electrical generating system and essential shipborne navigational aids.
- a discharge during the operation of the ship of oil or noxious liquid substances in excess of the quantity or instantaneous rate permitted under the MARPOL Convention.

A report must be made by the fastest telecommunications channels available with the highest possible priority to the nearest coastal State. The general principles for reporting incidents involving harmful substances set out in the IMO Resolution A.851(20) must be followed when making the report.

The report must include the identity of ships involved, time, type and location of the incident, quantity and type of harmful substance involved and assistance and salvage measures. Also when possible, the initial report should be supplemented as necessary and information concerning further developments should be provided. Also, requests from affected States for additional information should be complied with as fully as possible.

3. Operator's responsibility

The operator will be responsible for ensuring a ship complies with the requirements of the Order. Contravention of the Order will be an offence, although it is a defence for a person charged under the Order to show that all reasonable steps were taken to avoid the commission of the offence.

If the offence is due to the act or default of someone other than the operator, then the other person may be charged with and convicted of the offence whether or not proceedings are taken against the operator.

"Operator" is defined as "the person registered as the owner of a Manx ship in accordance with the Merchant Shipping Registration Act 1991 or Part 3 of the Harbours Act 2010, or any other person who has assumed responsibility for the operation of the ship from the owner and who on assuming that responsibility has agreed to take over all the duties and responsibilities imposed by the MARPOL Convention.

Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2015

The Regulations will give effect to the latest version of SOLAS Chapter VII up to and including amendments made by IMO Resolution MSC.325(90), which entered into force on 1 January 2014.

The Regulations implement the provisions of SOLAS VII concerning carriage of dangerous goods in packaged form and in solid form in bulk, the construction and equipment of ships carrying dangerous liquid chemicals in bulk and liquefied gases in bulk.

Part D of SOLAS VII has requirements for the carriage of packaged irradiated nuclear fuel, plutonium and high-level radioactive wastes on board ships and requires ships carrying such products to comply with the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships (INF Code). The provisions of Part D have not been included in the Regulations because Manx-registered vessels are not permitted to carry these goods.

1. Application

Except where expressly provided otherwise, the Regulations will apply to all Manx ships engaged on international voyages. Also, foreign ships must be operated in accordance with the provisions of the Order whilst they are in Manx territorial waters.

The Regulations will not apply to the following –

- ships of war and troopships;
- ships not propelled by mechanical means
- wooden ships of primitive build
- pleasure yachts not engaged in trade; and
- fishing vessels.

2. Carriage of dangerous goods in packaged form

The requirements in the Regulations for carriage of dangerous goods in packaged form will not apply to a ship's stores or equipment.

Carriage of dangerous goods in packaged form must be in compliance with the 2012 edition of the IMDG Code, which includes Amendment 36-12 adopted by IMO Resolution MSC.328(90).

Documentation

In all documents relating to the carriage of dangerous goods in packaged form, the Proper Shipping Name must be used (trade names alone may not be used). Also, the correct description must be given in accordance with the IMDG Code.

The transport documents prepared by the shipper must include, or be accompanied by, a signed certificate or declaration that the consignment, as offered for carriage, is

properly packaged, marked, labelled or placarded, as appropriate, and in proper condition for carriage.

The person(s) responsible for the packing or loading of dangerous goods in a cargo transport unit must provide a signed container or vehicle packing certificate stating that the cargo in the unit has been properly packed and secured and that all applicable transport requirements have been met. This certificate may be combined with the certificate or declaration described in the previous paragraph.

If the required certificate(s) are not available, or if there is due cause to suspect a cargo transport unit in which dangerous goods are packed is not in compliance with the certificate(s), then the cargo transport unit must not be accepted for carriage.

A ship carrying dangerous goods in packaged form must have a special list or manifest setting out, in accordance with the classification set out in the IMDG Code, the dangerous goods on board and the location of those goods. In place of the special list or manifest, it is acceptable to use a detailed stowage plan which identifies by class and sets out the location of all dangerous goods on board.

Before departure, a copy of the special list or manifest, or alternatively, of the detailed stowage plan, must be made available to the person or organisation designated by the port State authority.

3. Cargo securing manual

Cargo, cargo units and cargo transport must be loaded, stowed and secured throughout the voyage in accordance with the Cargo Securing Manual approved by the Ship Registry or a recognised organisation specified in Manx Shipping Notice 020.

The Cargo Securing Manual must be drawn up to a standard at least equivalent to the revised guidelines for the preparation of the Cargo Securing Manual provided in the IMO's Maritime Safety Circular MSC.1/Circ.1353.

4. Carriage of dangerous goods in solid form in bulk

Carriage of dangerous goods in solid form in bulk must be in compliance with the International Maritime Solid Bulk Cargoes (IMSBC) Code, up to and including amendments 02-13, which will come into force on 1 January 2015.

Documentation

In all documents relating to the carriage of dangerous goods in solid form in bulk the bulk cargo shipping name of the goods must be used; trade names alone may not be used.

Each ship must have a special list or manifest setting out the dangerous goods on board and their location. A detailed stowage plan which identifies by class and sets out the

location of all dangerous goods on board may be used in place of the special list or manifest.

Before departure, a copy of the special list or manifest, or alternatively, of the detailed stowage plan, must be made available to the person or organisation designated by the port State authority.

Stowage and segregation requirements for dangerous goods in solid form in bulk

Dangerous goods in solid form in bulk must be loaded and stowed safely and appropriately in accordance with the nature of the goods and incompatible goods must be segregated from one another.

Those goods which are liable to spontaneous heating or combustion must not be carried unless adequate precautions have been taken to minimise the likelihood of the outbreak of fire.

Goods which give off dangerous vapours must be stowed in a well-ventilated cargo space.

5. Reporting on incidents involving dangerous goods in packaged form or in solid form in bulk

If an incident takes place involving the loss, or likely loss overboard, of dangerous goods in packaged form or in solid form in bulk, the master or other person having charge of the ship must report the particulars of the incident without delay and to the fullest extent possible to the nearest coastal State.

The report must be drawn up in accordance with the "Guidelines for Reporting Incidents Involving dangerous goods, harmful substances and/or marine pollutants" adopted by the International Maritime Organisation by Resolution A.851(20).

If the ship is abandoned or if the report from the ship is unobtainable, the operator must, to the fullest extent possible, assume the reporting obligations placed upon the master.

6. Construction and equipment of ships carrying dangerous liquid chemicals in bulk

A chemical tanker constructed on or after 1 July 1986 is required to:

- comply with the requirements of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC) Code, up to and including amendments adopted by IMO Resolutions MSC.340(91) and MEPC.225(64);
- in addition to the requirements of SOLAS Chapter I, regulations 8,9 and 10, as applicable, be surveyed and certified as provided for in the IBC Code; and

- be subject to the control established in SOLAS Chapter I, regulation 19 for which purpose the certificate issued in accordance with the IBC Code will be treated as a certificate issued under SOLAS Chapter I, regulation 12 or 13.

Any chemical tanker, irrespective of the date of construction, which undergoes repairs, alterations, modifications and related outfitting must continue to comply with at least the requirements previously applicable to the ship.

A chemical tanker constructed before 1 July 1986, which undergoes repairs, alterations, modifications and related outfitting must comply with the requirements for a ship constructed on or after that date to at least the same extent as before undergoing repairs, alterations, modifications or outfitting.

If those repairs, alterations, modifications or outfitting are of a major character, then the ship must meet the requirements for a ship constructed on or after 1 July 1986 in so far as the Department deems reasonable and practical.

A ship, irrespective of the date of construction, which is converted to a chemical tanker, is treated as a chemical tanker constructed on the date on which the conversion commenced.

7. Construction and equipment of ships carrying liquefied gases in bulk

A gas carrier constructed on or after 1 July 1986 must:

- comply with the requirements of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC) Code, up to and including amendments adopted by IMO Resolution MSC.225(82);
- in addition to the requirements of SOLAS Chapter I, regulations 8,9 and 10, be surveyed and certified as provided for in the IGC Code; and
- be subject to the control established in SOLAS Chapter I regulation 19 for which purpose the certificate issued in accordance with the IGC Code will be treated as a certificate issued under SOLAS Chapter I, regulation 12 or 13.

Any gas carrier, irrespective of the date of construction, which undergoes repairs, alterations, modifications and related outfitting must continue to comply with at least the requirements previously applicable to the ship.

A gas carrier constructed before 1 July 1986 which undergoes repairs, alterations, modifications and related outfitting must meet the requirements for a ship constructed on or after 1 July 1986 in so far as the Department deems reasonable and practicable.

A ship, irrespective of the date of construction, which is converted to a gas carrier, will be treated as a gas carrier constructed on the date on which the conversion commenced.

8. Operator's responsibility

The operator will be responsible for ensuring a ship complies with the requirements of the Order. Contravention of the Order will be an offence, although it is a defence for a person charged under the Order to show that all reasonable steps were taken to avoid the commission of the offence.

If the offence is due to the act or default of someone other than the operator, then the other person may be charged with and convicted of the offence whether or not proceedings are taken against the operator.

"Operator" means the person registered as the owner of a Manx ship in accordance with the Merchant Shipping Registration Act 1991 or any other person who has assumed responsibility for the operation of the ship from the owner and who, on assuming that responsibility, has agreed to take over all the duties and responsibilities imposed by the SOLAS Convention.

APPENDIX (RELATING TO MARPOL ANNEX III)

CRITERIA FOR THE IDENTIFICATION OF HARMFUL SUBSTANCES IN PACKAGED FORM

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances*:

(a) Acute (short-term) aquatic hazard

Article I. Category: Acute 1

96 hr LC ₅₀ (for fish)	≤1 mg/l and/or
48 hr EC ₅₀ (for crustacea)	≤1 mg/l and/or
72 or 96 hr ErC ₅₀ (for algae or other aquatic plants)	≤1 mg/l

(b) Long-term aquatic hazard

(i) Non rapidly degradable substances for which there are adequate chronic toxicity data available

Article II. Category: Chronic 1

Chronic NOEC or EC _x (for fish)	≤0.1 mg/l and/or
Chronic NOEC or EC _x (for crustacea)	≤0.1 mg/l and/or
Chronic NOEC or EC _x (for algae or other aquatic plants)	≤0.1 mg/l

Category: Chronic 2

Chronic NOEC or EC _x (for fish)	≤0.1 mg/l and/or
Chronic NOEC or EC _x (for crustacea)	≤0.1 mg/l and/or
Chronic NOEC or EC _x (for algae or other aquatic plants)	≤0.1 mg/l

(ii) Rapidly degradable substances for which there are adequate chronic toxicity data available

Category: Chronic 1

Chronic NOEC or EC _x (for fish)	≤0.01 mg/l and/or
Chronic NOEC or EC _x (for crustacea)	≤0.01 mg/l and/or
Chronic NOEC or EC _x (for algae or other aquatic plants)	≤0.01 mg/l

Category: Chronic 2

Chronic NOEC or EC _x (for fish)	≤0.01 mg/l and/or
Chronic NOEC or EC _x (for crustacea)	≤0.01 mg/l and/or
Chronic NOEC or EC _x (for algae or other aquatic plants)	≤0.01 mg/l

(iii) Substances for which adequate chronic toxicity data are not available

Article III. Category: Chronic 1

96 hr LC ₅₀ (for fish)	≤1 mg/l and/or
48 hr EC ₅₀ (for crustacea)	≤1 mg/l and/or
72 or 96 hr ErC ₅₀ (for algae or other aquatic plants)	≤1 mg/l

and the substance is not rapidly degradable and/or the experimentally determined BCF is ≥ 500 (or, if absent, the log K_{ow} ≥ 4).

Article IV. Category: Chronic 2

96 hr LC ₅₀ (for fish)	>1 mg/l but ≤ 10mg/l and/or
48 hr EC ₅₀ (for crustacea)	>1 mg/l but ≤ 10mg/l and/or
72 or 96 hr ErC ₅₀ (for algae or other aquatic plants)	>1 mg/l but ≤ 10mg/l

and the substance is not rapidly degradable and/or the experimentally determined BCF is ≥ 500 (or, if absent, the log K_{ow} ≥ 4).

Additional guidance on the classification process for substances and mixtures is included in the IMDG Code.

*The criteria are based on those developed by the United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS), as amended.

For definitions of acronyms or terms used in this appendix, refer to the relevant paragraphs of the IMDG Code.