



MERCHANT SHIPPING (MARPOL PROTOCOL I - REPORTS ON INCIDENTS INVOLVING HARMFUL SUBSTANCES) ORDER 2015

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Statutory Document No. 2015/0232



Oil Pollution Act 1986

MERCHANT SHIPPING (MARPOL PROTOCOL I - REPORTS ON INCIDENTS INVOLVING HARMFUL SUBSTANCES) ORDER 2015

Approved by Tynwald: 23 July 2015
Coming into Operation: 1 August 2015

The Department of Economic Development, after consulting with the Secretary of State, makes the following Order under section 14 of the Oil Pollution Act 1986.

PART 1 - INTRODUCTORY

1 Title

This Order is the Merchant Shipping (MARPOL Protocol I - Reports on Incidents Involving Harmful Substances) Order 2015.

2 Commencement

If approved by Tynwald, this Order comes into operation on 1 August 2015¹.

3 Application

- (1) Subject to paragraph (2), this Order applies to –
 - (a) a Manx ship carrying a harmful substance wherever it may be;
and
 - (b) a foreign ship carrying a harmful substance whilst it is in the territorial waters of the Island.
- (2) This Order does not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government, non-commercial service.

¹ Tynwald approval is required by section 17 of the Oil Pollution Act 1986

4 Interpretation

In this Order –

“**foreign ship**” means any ship that is not a Manx ship;

“**harmful substance**” means any substance which is identified as a marine pollutant in the IMDG Code or which meets the criteria in the Appendix of MARPOL Annex III;

“**IMDG Code**” means –

- (a) up to and including 31 December 2015, the International Maritime Dangerous Goods Code (2012 edition) and includes all amendments made to that Code up to and including Amendments 36-12 adopted by IMO Resolution MSC.328(90) and which came into force on 1 January 2014; and
- (b) from 1 January 2016, the International Maritime Dangerous Goods Code and includes all amendments made to that Code up to and including those adopted by IMO Resolution MSC.372(93) on 22 May 2014;

“**IMO**” means the International Maritime Organization;

“**Manx ship**” has the meaning given by section 1 of the Merchant Shipping Registration Act 1991 and includes a ship registered under Part IV of that Act (the Demise Charter Register) or under Part 3 of the Harbours Act 2010 (pleasure craft and certain other vessels);

“**MARPOL Annex I**” means Annex I to the MARPOL Convention including all amendments made to that Annex up to and including those adopted by IMO Resolution MEPC.238 (65) on 17 May 2013 and which came into force on 1 January 2015;

“**MARPOL Annex II**” means Annex II to the MARPOL Convention including all amendments made to that Annex up to and including those adopted by IMO Resolution MEPC.238(65) on 17 May 2013 and which came into force on 1 January 2015;

“**MARPOL Annex III**” means Annex III to the MARPOL Convention including all amendments made to that Annex up to and including those adopted by IMO Resolution MEPC.193(61) on 1 October 2010 and which came into force on 1 January 2014;

“**MARPOL Convention**” means the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocols of 1978 and 1997;

“**noxious liquid substances**” has the meaning given by regulation 1(6) of MARPOL Annex II;

“**oil**” has the meaning given by regulation 1(1) of MARPOL Annex I;

“**operator**” means the owner of a ship, 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;

“**packaged form**” means the forms of containment specified for harmful substances in the IMDG Code;

“**ship**” means a vessel of any type operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms; and

“**territorial waters of the Island**” means –

- (a) the territorial sea adjacent to the Island; and
- (b) any waters within the area that extend landward from the baselines from which the breadth of the territorial sea is measured as far as the mean high water mark of ordinary spring tides.

PART 2 – REPORTING REQUIREMENTS

5 Duty to report

- (1) The master or other person having charge of any ship involved in an incident referred to in article 6 must report the particulars of the incident without delay and to the fullest extent possible in accordance with the provisions of this Order.
- (2) In the event of the ship referred to in paragraph (1) being abandoned, or in the event of a report from the ship being incomplete or unobtainable, the operator of the ship must, to the fullest extent possible, assume the obligations placed upon the master under the provisions of this Part.
- (3) An operator who fails to comply with paragraph (2), or a master or other person having charge of the ship who fails to comply with paragraph (1), commits an offence and is liable –
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding £5,000.

6 When to make reports

- (1) The report required by article 5 must be made when an incident involves –
 - (a) 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;

- (b) 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;
- (c) damage, failure or breakdown of a ship of 15 metres in length or above which –
 - (i) affects the safety of the ship, including but not limited to collision, grounding, fire, explosion, structural failure, flooding and cargo shifting; or
 - (ii) results in 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; or
- (d) 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.

7 Contents of report

A report must include –

- (a) identity of ships involved;
- (b) time, type and location of incident;
- (c) quantity and type of harmful substance involved; and
- (d) assistance and salvage measures.

8 Supplementary report

Any person who is obliged under this Order to send a report must, when possible –

- (a) supplement the initial report, as necessary, and provide information concerning further developments; and
- (b) comply as fully as possible with requests from affected States for additional information.

9 Reporting procedures

A report must be made by the fastest telecommunications channels available with the highest possible priority to the nearest coastal State.

10 Provisions relating to offences

- (1) It is a defence for a person charged under this Order to show that he or she took all reasonable steps to avoid the commission of the offence.

- (2) If the commission by any person of an offence under this Order is due to the act or default of some other person, that other person is guilty of the offence and a person may be charged with and convicted of the offence by virtue of this article whether or not proceedings are taken against the first-mentioned person.
- (3) If a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.
- (5) For the purposes of this article, “**body corporate**” includes a limited liability company constituted under the Limited Liability Companies Act 1996 and, in relation to that company, any reference to a director or other officer of a body corporate is a reference to a member and to the company’s manager and registered agent.

PART 3 – CONSEQUENTIAL AMENDMENTS

11 Consequential amendments

- (1) The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995² are revoked.
- (2) The Merchant Shipping (Prevention and Control of Pollution) Order 1987³ is amended as follows.
 - (a) in article 2 the definition of “the Protocol” is omitted; and
 - (b) article 3(1)(b) is omitted.
- (3) The Merchant Shipping (Accident Reporting and Investigation) Regulations 2001⁴ are amended as follows.
 - (a) After regulation 7, insert –

7A Other reporting requirements
7A To avoid doubt, a report made in accordance with these Regulations does not discharge the duty to make a report under

² SD 128/95

³ GC 132/87

⁴ SD 815/01

any other Manx statutory provision relating directly, or indirectly,
to merchant shipping. 

MADE 17 JUNE 2015

LAURENCE SKELLY
Minister for Economic Development

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to Protocol I to the MARPOL Convention (MARPOL Protocol I) which is concerned with reporting requirements for incidents involving harmful substances on ships. The Order implements MARPOL Protocol I including all amendments up to and including those adopted by IMO resolution MEPC.68(38) on 1 July 1996 and which came into force on 1 January 1998.

The Order applies to a Manx ship carrying a harmful substance wherever it may be and to a foreign ship carrying a harmful substance whilst it is within the territorial waters of the Island. The Order requires the master or other person having charge of a ship to report an incident in accordance with the requirements of MARPOL Protocol I without delay to the nearest coastal State.

The Order revokes and replaces the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995 (SD 128/95) and amends GC 132/87 and SD 815/01.

Copies of this document and Manx Shipping Notices are obtainable from the Isle of Man Ship Registry, Department of Economic Development, St Georges Court, Upper Church Street, Douglas, Isle of Man, IM1 1EX and can be accessed via the website: <http://www.iomshipregistry.com>

The International Convention for the Prevention of Pollution from Ships 1973, its Protocols, IMO resolutions and circulars can be obtained from the International Maritime Organization, 4 Albert Embankment, London SE1 7SR.