L.N. 264 of 2004

PETROLEUM (IMPORT, STORAGE AND SALE) ORDINANCE (CAP. 25)

MALTA MARITIME AUTHORITY ACT (CAP. 352)

BUNKERING (FUELS) TAX ACT (CAP. 381)

Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering (Amendment) Regulations, 2004

IN exercise of the powers conferred by article 7 of the Petroleum (Importation, Storage and Sale) Ordinance, by article 28 of the Malta Maritime Authority Act and by article 7 of the Bunkering (Fuels) Tax Act, the Minister for Competitiveness and Communications, after consultation with the Malta Maritime Authority, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering (Amendment) Regulations, 2004 and shall be read and construed as one with the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations, 1996, hereinafter referred to as "the principal regulations".

(2) The purpose of these regulations is to implement Council 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 in so far as it relates to the Notification of dangerous or polluting goods on board ships (HAZMAT).

(3) These regulations shall come into force on the 1st May, 2004.

Amends regulation 3 of the principal regulations.

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

(a) immediately before the definition of "Authority" there shall be inserted the following definitions:

" "address" means the name and the communication links whereby contact may, where necessary, be made with the owner, agent, port authority, competent authority or any other authorised person or body in possession of detailed information regarding the ship's cargo;

"agent" means any person mandated or authorised to supply information on behalf of the owner of the ship;";

(b) immediately after the definition "cargo measurement" there shall be inserted the following definition:

" "cargo transport unit" means a road freight vehicle, a railway freight wagon, a freight container, a road tank vehicle, a railway wagon, or portable tank;";

(c) immediately after the definition "combination carrier" there shall be inserted the following definition:

" "company" means a company within the meaning of Regulation 1(2) of Chapter IX of the SOLAS Convention;

"competent authority" means any authority designated as such by a Community Member State to receive and pass on information in conformity with Council Directive 2002/59/EC; provided that for Malta the designated competent authority shall be the Malta Maritime Authority;";

(d) for the definition "dangerous cargoes" there shall be substituted the following:

"dangerous goods" means:

i. goods classified in the IMDG Code,

ii. dangerous liquid substances listed in Chapter 17 of the IBC Code,

iii. liquefied gases listed in Chapter 19 of the IGC Code,

iv. solids referred to in Appendix B of the BC Code.

Also included are goods for the carriage of which appropriate preconditions have been laid down in accordance with paragraph 1.1.3 of the IBC Code or paragraph 1.1.6 of the IGC Code;

Any reference to "dangerous cargoes" in the principle regulations shall be construed together with the definition of dangerous goods;";

(e) immediately after the definition "petroleum" there shall be inserted the following definition:

" "polluting goods" means:

i) oil as defined in Annex I to the MARPOL Convention;

ii) noxious liquid substances as defined in to the Annex II MARPOL Convention;

iii) harmful substances as defined in Annex III to the MARPOL Convention;

and shall be read and construed together with the definition of dangerous goods;";

(f) immediately after the definition "ship" there shall be inserted the following definition:

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

(g) immediately after the definition "IMO Code for Existing Ships Carrying Liquefied Gases" there shall be inserted the following definitions:

" "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 (INF Code);".

Amends regulation 4 of the principal regulations.

3. Immediately at the end of regulation 4 of the principal regulations there shall be inserted the following proviso:

"Provided that regulations 12 and 22 shall not apply to-

i) warships, naval auxiliaries and other ships owned or operated by a Member State and used for non-commercial public service:

ii) fishing vessels, traditional ships and recreational craft with a length of less than 45 metres;

iii) bunkers below 5000 tons on board ships, ship's stores and equipment for use on board ships.".

Amends regulation 9 of the principal regulations.

4. The provision of regulation 9 of the principal regulations shall be renumbered as sub-regulation (1) thereof, and immediately after sub-regulation (1) as renumbered there shall be added the following new sub-regulations:

"(2) No dangerous or polluting goods may be offered for carriage or taken on board any vessel irrespective of its size, in a port in Malta unless a declaration has been delivered to the master or owner containing the following information:

(a) 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 ship needed for INF cargoes as defined in Regulation VII/14.2, the quantities of such goods and, if they are being carried in cargo transport units other than tanks, the identification number thereof; and

(b) the address from which detailed information on the cargo may be obtained.

(3) It shall be the duty of the shipper to deliver to the master or owner such declaration required by this regulation and to ensure that the shipment offered for carriage is indeed the one declared in the declaration.".

Amends regulation 12 of the principal regulations.

5. In the proviso to sub-regulation (1) of regulation 12 of the principal regulations, immediately after the words "Provided that -" and before paragraph (a) there shall be inserted the following:

"the master, owner, or agent of a ship, irrespective of its size, carrying dangerous or polluting goods bound for a port or an anchorage located in Malta shall, at the latest upon departure from the loading port or as soon as the port of destination or the location of the anchorage is known, if this information is unavailable at the moment of departure, notify the Director of the information listed in Schedule A to these regulations by such means as determined by the Director;

Provided further that - ".

6. In regulation 22 of the principal regulations, sub-regulation (2) shall be renumbered as sub-regulation (3) thereof, and immediately following sub-regulation (1) as renumbered there shall be inserted the following new sub-regulation: Amends regulation 22 of the principal regulations.

"(2) The master, owner or agent of a ship, irrespective of its size, carrying dangerous or polluting goods and leaving a port or an anchorage located in Malta shall before departure give notice to the Director, by such means as determined by the Director, of all information listed in Schedule A to these regulations.".

7. For regulation 83 of the principal regulations there shall be substituted the following: Substitutes regulation 83 of the principal regulations.

"83. A person shall not be entitled for a licence to carry out bunkering operations in terms of these regulations unless he is in possession of a valid licence issued in terms of the Bunkering (Fuels) Tax Act, by the Malta Resources Authority established under the Malta Resources Authority Act.". Cap. 381. Cap. 423.

8. For regulation 91 of the principal regulations there shall be substituted the following: Substitutes regulation 91 of the principal regulations.

"91. Notwithstanding any other regulation herein:

(a) a tanker carrying only non-volatile petroleum or sulphuric acid may enter Grand Harbour for the purpose of discharging at a marine terminal or facility;

(b) a bunker barge or a tanker, with her last cargo being a non-volatile petroleum cargo, or with her tanks in the inert or gas free condition, may be allowed to enter Grand Harbour to load non-volatile petroleum from a marine terminal or facility.".

Amends Regulation 97 of the principal regulations.

9. The provision of regulation 97 of the principal regulations shall be renumbered as sub-regulation (1) thereof, and immediately after sub-regulation (1) as renumbered there shall be added the following new sub-regulations:

Exemption of Ships.

(2) The Authority may exempt scheduled services performed between ports in Malta from the requirements laid down in regulations 12(1)(a) and 22(2) if:

(a) the company operating the scheduled services referred to in this regulation keeps and updates a list of ships concerned and sends it to the Director; and

(b) for each voyage performed, carrying dangerous or polluting goods, the information listed in Schedule A to these regulations, is kept available for the Director upon request, 24 hours a day and without delay. The company shall establish the system to ensure that the said information is submitted to the Director in such format and by such means as required by the Director.

(3) The Authority may exempt scheduled services performed between Malta and a port in an other Member State from the requirements laid down in regulations 12(1)(a) and 22(2) if:

(a) the Authority agrees with the competent authority of the other Member State that such exemption is required;

(b) the company operating the scheduled services referred to in this regulation keeps and updates a list of ships concerned and sends it to the Director;

(c) for each voyage performed, carrying dangerous or polluting goods, the information listed in Schedule A to these regulations is kept available for the Director upon request, 24 hours a day and without delay. The company shall establish the system to ensure that the said information is submitted to the Director in such format and by such means as required by the Director.

(4) The Authority holds the right that if a company, operating a scheduled service, is exempted under sub-regulations (2) and (3) of this regulation, fails to meet the established conditions, the Authority shall withdraw the privilege of the exemption from the company concerned.".

10. For Schedule A to the principal regulations there shall be substituted the following:

Substitutes Schedule A to the principal regulations.

"SCHEDULE A

(Regulation 12)

NOTICE OF EXPECTED ARRIVAL AND DEPARTURE OF A SHIP CARRYING DANGEROUS OR POLLUTING GOODS

ARRIVAL ☐ **DEPARTURE** ☐ (TICK AS APPROPRIATE)

1. Name of Ship	2. Flag	3. Call Sign	4. IMO No.	5. G. T.	6. N.T.	7. Summer D.W.T.

8. Type of Ship	9. Length (LOA)	10. Beam (WOA)	11. Maximum Draft	12. Arrival/Departure Draft	
				F:	A:

13. Estimated Time of Arrival:	14. Last Port of Call:
a. Date: b. Time:	15. Next Port of Call:
16. Estimated Time of Departure	17. Estimated Time of Arrival at Next Port:
a. Date: b. Time:	a. Date: b. Time:
18. Requested Berth:	19. Purpose of Call:
20. Special Remarks to be considered for Berthing:	
21. Number of persons on board:	22. Number of crew on board:
23. Ship's owner:	24. Ship's Agent:

25. Does the ship have any defect of hull, machinery or navigational equipment which may adversely affect the safety of the safe manoeuvrability of the ship; affect the safety of other ships, persons or property on the land or within the territorial waters of Malta; constitute a hazard to the environment.

YES ☐ NO ☐

26. The condition of the cargo and any cargo containment, handling system, equipment or instrumentation is sound, suitable for purpose and free from any defect which could adversely affect the safety of the port area, the ship or the environment. YES ☐ NO ☐

27. Date of Notification:	28. Name of Notifying person:

a) The correct technical names of the dangerous or pollution 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 ship as defined by the INF Code, the quantities of such goods and their location on board and, if they are being carried in cargo transport units other than tanks, the identification number thereof;

b) 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 ship is on board;

c) Address from which detailed information on the cargo may be obtained.

Additional Information for Tankers:

CARGO INFORMATION	
Cargo type and quantity (if in ballast indicate last cargo):	
Proper Shipping / Correct Technical Name:	
UN No:	
*Density @ 15 °C	*Kinematic viscosicty @ 50 °C
Type of operation (Discharge/Loading/Other). If other please specify	

VESSEL INFORMATION	
**Date of Delivery	**Double Hull ☐ **SBT ☐ **Single Hull ☐ (Tick as appropriate)

Valid International Oil Pollution Prevention Certificate (IOPP)	YES ☐ NO ☐
Valid Certificate of insurance or other financial security in respect of civil Liability for oil pollution damage (CLC)	YES ☐ NO ☐
Valid International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (NLS Certificate)	YES ☐ NO ☐
Valid Certificate of Fitness for the Carriage of Dangerous Chemical in Bulk or International Certificate for the Carriage of Dangerous Goods in Bulk	YES ☐ NO ☐
Valid International Certificate for the Carriage of Liquefied Gases in Bulk	YES ☐ NO ☐
Valid International Certificate of Fitness for the Carriage of INF Cargo	YES ☐ NO ☐
(Select and Tick as appropriate)	

Is vessel fitted with a fixed inert gas system	YES ☐ NO ☐
Is system operational	YES ☐ NO ☐

Is vessel inerted	YES ☐ NO ☐
If YES to specify:	OXYGEN CONTENT (% by Volume) .....
	MINIMUM POSITIVE PRESSURE (mmgh) .....
Is vessel GAS FREE	YES ☐ NO ☐
If YES to specify	OXYGEN READING (% by volume) .....
	FLAMMABLE GASES (% LFL) .....

* applicable only if cargo type is heavy grades of oil

** applicable only for oil tankers

Substitutes Schedule D to the principal regulations.

11. For Schedule D to the principal regulations there shall be substituted the following:

"SCHEDULE D

(Regulation 3)

INTERNATIONAL MARITIME ORGANISATION CONVENTIONS TO WHICH MALTA HAS ACCEDED, AS AT 15TH APRIL 2004.

1. International Convention on Civil Liability for Oil Pollution Damage, 1969 and 1992 Protocol

2. International Convention on the Establishment of an International Fund for compensation for Oil Pollution Damage, 1971 and 1992 Protocol

3. International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972

4. International Convention for the Prevention of Pollution from Ships 1973 and 1978 Protocol and amendments, Annexes I, II, III and V

5. International Convention for the Safety of Life at Sea 1974, 1978 Protocol and 1988 Protocol.

6. International Convention of Load Lines, 1988 Protocol

7. International Convention on Maritime Search and Rescue, 1979

8. International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990

9. Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000

10. International Convention on Standards of Training, Certification Watchkeeping for Seafarers 1978

11. International Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988

12. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 1988

13. International Convention on Tonnage Measurement of Ships, 1969

14. Convention on Facilitation of International Maritime Traffic, 1965

15. Convention on the International Regulations for Preventing Collisions at Sea 1972

16. Convention on the International Mobile Satellite Organisation

17. Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976"

Amends Schedule E to the principal regulations.

12. For paragraph (c) of Schedule E to the principal regulations there shall be substituted the following:–

"(c) Renewal of a bunker operator's licence ... Lm250".

Repeal of certain provisions of L.N. 75 of 2002.

13. (1) The provisions of regulations 2 to 9 and 12 of the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering (Amendment) Regulations, 2002, hereinafter referred to as the 2002 Amendment Regulations, are hereby repealed.

(2) Schedule D of the principal regulations, as amended by regulation 10 of the 2002 Amendment Regulations, is hereby being substituted by regulation 11 hereof.

(3) Regulation 91 of the principal regulations, as substituted by regulation 11 of the 2002 Amendment Regulations, is hereby being subsequently substituted by regulation 8 hereof.

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