L.N. 506 of 2010

AUTHORITY FOR TRANSPORT IN MALTA ACT (CAP. 499)

Vessel Traffic Monitoring and Reporting Requirements (Amendment) Regulations, 2010

IN exercise of the powers conferred by article 43(1) and (3) of the Authority for Transport in Malta Act, the Minister for Infrastructure, Transport and Communications, in consultation with the Authority for Transport in Malta, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Vessel Traffic Monitoring and Reporting Requirements (Amendment) Regulations, 2010 and they shall be read and construed as one with the Vessel Traffic Monitoring and Reporting Requirements Regulations, 2004, hereinafter referred to as "the principal regulations".

L.N. 458 of 2004.

(2) These regulations shall come into force on the 30th of November, 2010.

Amends regulation 2 of the principal regulations.

2. In sub-regulation (1) of regulation 2 of the principal regulations, for the word "establishing" there shall be substituted the words ", as subsequently amended by Directive 2009/17/EC of the European Parliament and of the Council of the 23rd April, 2009, establishing".

Amends regulation 3 of the principal regulations.

3. Sub-regulation (2) of regulation 3 of the principal regulations shall be amended as follows:

(a) for the words "These regulations shall not apply to:" there shall be substituted the words "Unless otherwise provided, these regulations shall not apply to:"; and

(b) for paragraph (d) thereof, there shall be substituted the following:

"(d) bunkers on ships below 1,000 gross tonnage and ship's stores and equipment for use on board all ships.".

Amends regulation 3 of the principal regulations.

4. Sub-regulation (1) of regulation 4 of the principal regulation shall be amended as follows:

(a) immediately after the definition "dangerous goods", there shall be added the following new definitions:

" "fishing vessel" means any vessel equipped for the commercial exploitation of living aquatic resources;

"IMO guidelines on the fair treatment of seafarers in the event of a maritime accident" means the guidelines as annexed to resolution LEG. 3(91) of the International Maritime Organisation Legal Committee of 27th April, 2006 and as approved by the Governing Body of the International Labour Organisation (ILO) in its 296th session of the 12th to the 16th June, 2006, in their updated versions;";

(b) in the definition "IMO Resolution A.851(20)", immediately after the words "or marine pollutants", there shall be added the words ", in its updated version";

(c) in the Maltese text, the definition "IMO Resolution A.851(2)" shall be deleted;

(d) immediately after the definition "IMO Resolution A.851(20)", there shall be added the following new definitions:

" "IMO Resolution A.917(22)" means the International Maritime Organisation Resolution 917(22) entitled "Guidelines for the onboard use of AIS", as amended by the International Maritime Organisation Resolution 956(23), in its updated version;

"IMO Resolution A.949(23)" means the International Maritime Organisation Resolution 949(23) entitled "Guidelines on places of refuge for ships in need of assistance", in its updated version;

"IMO Resolution A.950(23)" means the International Maritime Organisation Resolution 950(23) entitled "Maritime assistance services (MAS)", in its updated version;

"IMO Resolution MSC.286(86)" means the International Maritime Organisation Resolution 286(86) entitled "Recommendations for Material Safety Data Sheets (MSDS) for MARPOL Annex 1 Oil Cargo and Oil Fuel", in its updated version;";

(e) immediately after the definition "law", there shall be added the following new definition:

" "LRIT" means a system for the long-range identification and tracking of ships in accordance with the provisions of regulation V/19-1 of the International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended;";

(f) immediately after the definition "related interests", there shall be added the following new definitions:

" "SafeSeaNet" means the Community maritime information exchange system developed by the Commission in cooperation with the Member States to ensure the implementation of Community legislation;

"scheduled service" means a series of ship crossings operated so as to serve traffic between the same two or more ports, either according to a published timetable or with crossings so regular or frequent that they constitute a recognisable systematic series;"; and

(g) immediately after the definition "ship", there shall be added the following new definition:

" "ship in need of assistance" means, without prejudice to the provisions of the International Convention on Maritime Search and Rescue (SAR), 1979 in its up-to-date version, concerning the rescue of persons, a ship in a situation that could give rise to its loss or to an environmental or navigational hazard;".

Amends regulation 5 of the principal regulations.

5. Immediately after sub-regulation (2) of regulation 5 of the principal regulations, there shall be added the following new sub-regulation:

"(3) The competent authority responsible for the accommodation of ships in need of assistance is the Authority for Transport in Malta.".

Adds new regulation 6A to the principal regulations.

6. Immediately after regulation 6 of the principal regulations, there shall be added the following new regulation:

"Exemptions from notification.

6A. (1) The Authority may exempt scheduled services performed between ports in Malta from the requirements laid down in regulation 6 if the following conditions are met:

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

(b) for each voyage performed, the information listed in regulation 6(3) is kept available for the Authority upon request. The person or company shall establish the internal system to ensure that the said information can be sent to the Authority, twenty-four hours a day and without delay, in such format and by such means as may be required by the Authority.

(2) The Authority may exempt scheduled services performed between a port in Malta and a port in another Member State or other coastal state from the requirements laid down in regulation 6 if the Authority agrees with the competent authority of the other state that such exemption is required and the conditions of sub-regulation (1) hereof are met.

(3) Any deviations from the estimated time of arrival at a port of destination or pilot station in Malta of three hours or more must be notified to the Authority in accordance with the requirements laid down in regulation 6.

(4) The Authority reserves the right that if a person or company, which is operating a scheduled service and is exempted under sub-regulations (1) and (2) hereof, fails to meet any one of the established conditions, the Authority shall immediately withdraw the privilege of the exemption from the person or company concerned.

(5) For the purposes of this regulation:

(a) the service shall not be regarded as a scheduled service unless it is intended to be operated for a minimum of one month;

(b) exemptions to regulation 6 shall be limited to voyages of a scheduled duration of up to twelve hours; and

(c) exemptions shall only be granted to individual ships as regards a specific service.".

Amends regulation 9 of the principal regulations.

7. Regulation 9 of the principal regulations shall be amended as follows:

(a) in paragraph (a) thereof, immediately after the words "International Maritime Organisation (IMO)", there shall be added the words ", including, but not limited to, IMO Resolution A.917(22)";

(b) paragraphs (c) and (d) thereof shall be renumbered as paragraphs (d) and (e) respectively;

(c) immediately after paragraph (b) thereof, there shall be added the following new paragraph:

"(c) Without prejudice to paragraph (a), any fishing vessel calling at a port in Malta having an overall length of more than 15 metres and which either flies the flag of a Member State and is registered in the Community, or operates in the internal or territorial waters of Malta, or lands its catch in any port of Malta, shall be fitted with an AIS (Class A) which meets the performance standards drawn up by the International Maritime Organisation (IMO), including, but not limited to, IMO Resolution A.917(22):

Provided that fishing vessels shall comply with the provisions of this regulation according to the following timetable:

(i) fishing vessels having an overall length of and exceeding 24 metres but less than 45 metres, by not later than 31st May, 2012;

(ii) fishing vessels having an overall length of and exceeding 18 metres but less than 24 metres, by not later than 31st May, 2013;

(iii) fishing vessels having an overall length exceeding 15 metres but less than 18 metres, by not later than 31st May, 2014; and

(iv) new built fishing vessels having an overall length exceeding 15 metres, from 30th November, 2010:

Provided further that fishing vessels equipped with AIS shall maintain it in operation at all times.

AIS may only be switched off in exceptional circumstances where the master considers this to be necessary in the interest of safety or security of his vessel."; and

(d) immediately after paragraph (e) thereof as renumbered, there shall be added the following new paragraph:

"(f) Any ship calling at a port in Malta to which regulation V/19-1 of the International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended, and the performance standards and functional requirements adopted by the International Maritime Organisation (IMO) apply, shall carry LRIT equipment complying with that regulation.".

Amends regulation 10 of the principal regulations.

8. Immediately after paragraph (c) of sub-regulation (1) of regulation 10 of the principal regulations, there shall be added the following new paragraphs:

"(d) ships which have failed to notify, or do not have, insurance certificates or financial guarantees pursuant to any legislation of Malta, Community legislation and international rules;

(e) ships which have been reported by pilots or a port authority of a Member State as having apparent anomalies which may prejudice their safe navigation or create a risk for the environment.".

Amends regulation 11 of the principal regulations.

9. Regulation 11 of the principal regulations shall be amended as follows:

(a) in the Maltese text of paragraph (i) of sub-regulation (3) thereof, for the words "Risoluzzjoni ta' l-IMO A.851(20)" there shall be substituted the words "Riżoluzzjoni A.851(20) tal-IMO";

(b) sub-regulation (4) thereof shall be renumbered as sub-regulation (7); and

(c) immediately after sub-regulation (3) thereof, there shall be added the following new sub-regulations:

"(4) The coastal station responsible for the area in which the accident, incident or polluting event occurred, as the case may be, shall take all the necessary

measures to notify the Authority and to broadcast within the relevant areas such accident, incident or polluting event notified to it under sub-regulation (1), and the information regarding any ship that poses a threat to the maritime safety, the safety of individuals or the environment.

(5) The Authority and the coastal station shall make adequate arrangements to provide the information notified to them according to regulations 6(6) and 11(1) at any time upon request for safety reasons by the competent authority of another Member State.

(6) The Authority or the coastal station shall, when they have been informed pursuant to these regulations or in some other way of facts which involve or increase the risk for another Member State of a hazard being posed to certain shipping areas and coastal zones, take all the appropriate measures to inform any interested Member State thereof as soon as possible and consult it regarding the action being envisaged. Furthermore, the Authority and the coastal station shall cooperate with such Member State with a view to pooling arrangements for joint action.".

Amends regulation 13 of the principal regulations.

10. Regulation 13 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, immediately after the words "or accident at sea." there shall be added the words "To this end, they shall communicate to the Authority and, or the coastal station, on request, 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;

(b) for the substances referred to in Annex 1 to MARPOL, the safety data sheet detailing the physico-chemical characteristics of the products, including, where applicable, their viscosity expressed in cSt at 50oC and their density at 15oC and the other data contained in the safety date sheet in accordance with IMO Resolution MSC.286(86);

(c) the address from which detailed information on the cargo may be obtained; and

(d) the emergency numbers of the shipper or any other person or body in possession of information on the physico-chemical characteristics of the products and on the action to be taken in an emergency."; and

(b) immediately after sub-regulation (3) thereof, there shall be added the following new sub-regulation:

"(4) In accordance with all the applicable laws and regulations, the Authority shall take into account the relevant provisions of the IMO guidelines on the fair treatment of seafarers in the event of a maritime accident in the waters under the jurisdiction of Malta.".

Renumbers regulations 14 and 15 of the principal regulations.

11. Regulation 14 and 15 of the principal regulations shall be renumbered as regulations 20 and 21 thereof respectively.

Adds new regulations 14 to 19 to the principal regulations.

12. Immediately after regulation 13 of the principal regulations, there shall be added the following new regulations:

"Measures to be taken for ships in need of assistance or in the event of a threat to maritime safety and the protection of the environment.

14. Where, following an accident, an incident or polluting event according to regulation 11, or the accommodation of ships in need of assistance has arisen, the Authority deems, within the framework of international law, that it is necessary to avert, lessen or remove a serious and imminent threat to the Maltese coastline or related interests, or to the safety of other ships and their crews and passengers or to persons on shore, or to protect the marine environment, the Authority may, inter alia, take any one of the following non-exhaustive measures:

(a) restrict the movement of the ship or direct it to follow a specific course:

Provided that this requirement does not affect the master's responsibility for the safe handling of his ship;

(b) give official notice to the master of the ship to put an end to the threat to the environment or maritime safety;

(c) send an evaluation team aboard the ship to assess the degree of risk, help the master to

remedy the situation and keep the coastal station informed thereof; and

(d) instruct the master to enter in a place of refuge in the event of imminent peril, or cause the ship to be piloted or towed.

Plans for the accommodation of ships in need of assistance.

15. (1) The Authority shall draw up plans for the accommodation of ships in order to respond to threats presented by ships in need of assistance in the waters under the jurisdiction of Malta, including, where applicable, threats to human life and the environment.

(2) The plans referred to in sub-regulation (1) shall be prepared after consultation with the stakeholders and parties concerned, on the basis of IMO Resolutions A.949(23) and A.950(23), and shall contain at least the following:

(a) the identity and contact addresses of the authorities or entities responsible for receiving and handling alerts;

(b) the identity and contact address of the competent authority for assessing the situation and taking a decision on acceptance or refusal of a ship in need of assistance in the place of refuge selected;

(c) information on the coastline of Malta and all elements facilitating a prior assessment and rapid decision regarding the place of refuge for a ship, including a description of environmental, economic and social factors and natural conditions;

(d) the assessment procedures for acceptance or refusal of a ship in need of assistance in a place of refuge;

(e) the resources and installations suitable for assistance, rescue and combating pollution;

(f) procedures for international coordination and decision-making; and

(g) the financial guarantee and liability procedures in place for ships accommodated in a place of refuge.

(3) The Authority shall communicate on request the relevant information concerning plans for accommodating ships in need of assistance to neighbouring Member States of Malta.

(4) The Authority shall ensure that in implementing the procedures provided for in the plans for accommodating ships in need of assistance, the relevant information is available to the parties involved in the operations.

Decision on the accommodation of ships in need of assistance.

16. (1) The Authority shall decide on the acceptance of a ship in a place of refuge following the prior assessment of the situation carried out on the basis of the plans referred to in regulation 15.

(2) The Authority shall ensure that ships are admitted to a place of refuge if it considers such an accommodation the best course of action for the purposes of the protection of human life or the environment.

Financial security and compensation.

17. (1) The absence of an insurance certificate within the meaning of Article 6 of Directive 2009/20/EC of the European Parliament and of the Council of 23rd April, 2009 on insurance of shipowners for maritime claims shall not exonerate the Authority from the preliminary assessment and decision referred to in regulation 16; and shall not in itself be considered a sufficient reason for the Authority to refuse to accommodate a ship in a place of refuge.

(2) Without prejudice to sub-regulation (1) hereof, when accommodating a ship in a place of refuge, the Authority may request the ship's operator, agent or master to present an insurance certificate within the meaning of Article 6 of Directive 2009/20/EC. The act of requesting such certificate shall not lead to a delay in accommodating the ship.

Maritime information management system.

18. (1) The Authority shall establish a maritime information management system to process the information referred to in these regulations and in the Directive, as amended.

(2) The Authority shall ensure the compatibility, connectivity and interoperability of such

maritime information management system with the SafeSeaNet system adopted by the Commission.

(3) Furthermore the Authority shall cooperate with other competent authorities of other Member States to ensure the interconnection and interoperability of their respective systems and to develop and update SafeSeaNet.

(4) The maritime information management system shall:

(a) ensure that the data exchange is electronic and enable messages notified in accordance with regulation 6(6) to be received and processed;

(b) allow information to be transmitted 24 hours a day; and

(c) upon request, through SafeSeaNet, and if needed for the purpose of maritime safety or security or the protection of the maritime environment, is able to send information on the ship and the dangerous or polluting goods on board to the national and local competent authorities of another Member State without delay.

Confidentiality of Information.

19. The Authority shall, in accordance with all the applicable national legislation in force from time to time, take all necessary measures to ensure the confidentiality of the information sent to the Authority pursuant to these regulations, and the Authority shall use such information in compliance with these regulations.".

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