L.N. 176 of 2011

MERCHANT SHIPPING ACT (CAP. 234)

Merchant Shipping (Prevention of Pollution by Sewage) Regulations, 2011

IN exercise of the powers conferred by articles 308A and 374 of the Merchant Shipping Act, the Minister for Infrastructure, Transport and Communications has made the following regulations: -

Citation and Commencement.

1. (1) The title of these regulations is the Merchant Shipping (Prevention of Pollution by Sewage) Regulations, 2011.

(2) These regulations shall come into force on the 30 June, 2011.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires –

"the Act" means the Merchant Shipping Act; Cap.234.

"Maltese ship" has the same meaning as is assigned to it in article 3(1) of the Merchant Shipping Act;

"MARPOL 73/78" means the "International Convention for the Prevention of Pollution from Ships" signed in London on the 2nd November, 1973, including its Protocol of 1978 and any other amendment or Protocol related thereto, as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Maritime Organisation or determined, laid down, prescribed, set or specified by the Registrar-General in terms of these regulations;

"Annex IV" means "Annex IV of MARPOL 73/78: Regulations for the Prevention of Pollution by Sewage from

Ships" including any other amendment related thereto, as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto, adopted or developed by the International Maritime Organisation or determined, laid down, prescribed, set or specified by the Registrar-General in terms of these regulations or of Annex IV;

"mile" means an international nautical mile that is to say a distance of 1852 metres;

"nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law except that, for the purposes of these regulations "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in:

Latitude 11°00' S, longitude 142°08' E

To a point in latitude 10°35' S, longitude 141°55' E

Thence to a point latitude 10°00' S, longitude 142°00' E

Thence to a point latitude 9°10' S, longitude 143°52' E

Thence to a point latitude 9°00' S, longitude 144°30' E

Thence to a point latitude 10°41' S, longitude 145°00' E

Thence to a point latitude 13°00' S, longitude 145°00' E

Thence to a point latitude 15°00' S, longitude 146°00' E

Thence to a point latitude 17°30' S, longitude 147°00' E

Thence to a point latitude 21°00' S, longitude 152°55' E

Thence to a point latitude 24°30' S, longitude 154°00' E

Thence to a point on the coast of Australia in latitude 24°42' S, longitude 153°15' E;

"sewage" means:

(a) drainage and other wastes from any form of toilets and urinals;

(b) drainage from medical premises (such as dispensary, sick bay) via wash basins, wash tubs and scuppers located in such premises;

(c) drainage from spaces containing living animals; or

(d) other wastewaters when mixed with the drainages defined above.

(2) Any reference in these regulations, to a convention, protocol or annex shall include reference to any amendment to such convention, protocol or annex as from time to time may be ratified, acceded to or accepted by the Government of Malta, and where the context allows, it shall include also reference to any other instruments, standards and specifications of a mandatory nature related thereto as may from time to time be adopted or developed by the International Maritime Organisation.

(3) Unless otherwise defined in these regulations or unless the context otherwise requires, words and expressions used in these regulations shall have the same meaning assigned to them in the MARPOL Convention or in Protocol I, or in Annex IV as the case may be.

(4) The term ''Administration'' as used in Annex IV shall, with reference to Malta, and where the context so requires, for the purposes of these regulations, mean the Registrar General of Shipping and Seamen.

Application.

3. These regulations apply to Maltese ships wherever they may be and to other ships while they are in Malta provided they are:

(a) ships of 400 gross tonnage and above, or

(b) ships of less than 400 gross tonnage which are certified to carry more than 15 persons.

Sewage systems and standard discharge connections.

4. (1) Every ship which, in accordance with regulation 3, is required to comply with these regulations shall be equipped with a sewage system in accordance with the requirements of Annex IV.

(2) Every ship which, in accordance with regulation 3, is required to comply with these regulations shall be provided with a pipeline and the relevant shore connection flange for discharging sewage to port sewage treatment facility in accordance with the requirements of Annex IV.

Discharge of Sewage.

5. (1) The discharge of sewage into the sea is prohibited, except when:

(a) the ship is discharging comminuted and disinfected sewage using a system, in accordance with regulation 4(1), hereof, at a distance of more than 3 nautical miles from the nearest land, or

(b) the ship is discharging sewage which is not comminuted or disinfected at a distance of more than 12 nautical miles from the nearest land:

Provided that in any case, the sewage that has been stored in holding tanks shall not be discharged instantaneously but at a moderate rate when the ship is en route and proceeding at not less than 4 knots, or

(c) the ship has in operation a sewage treatment plant approved by the Administration:

Provided that the test results of the plant are laid down in the ship's International Sewage Pollution Prevention Certificate and, additionally, the effluent shall not produce visible floating solids nor cause discoloration of the surrounding water.

(2) When the sewage is mixed with wastes or waste water covered by other Annexes of MARPOL 73/78, the requirements of those Annexes shall be complied with in addition to the requirements of Annex IV.

Exceptions.

6. Regulation 5 hereof, shall not apply to:

(a) the discharge of sewage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

(b) the discharge of sewage resulting from damage to a ship or its equipment if all reasonable precautions have been taken before and after the occurrence of the damage, for the purpose of preventing and minimising the discharge.

Power to prescribe standrads.

7. The Registrar-General may either on a case by case basis or through the issue of Merchant Shipping Notices -

(a) determine, lay down, prescribe, set or specify what may be required to be determined, laid down, prescribed, set or specified by these regulations or by Annex IV, or expound on the requirements of these regulations or Annex IV or clarify their applicability or interpretation; and

(b) extend any of the provisions of Annex IV to other classes of Maltese ships or to other classes of ships while they are in Maltese waters, and in so doing, and without prejudice to the generality of the foregoing, the Registrar-General shall be guided by the circulars, clarifications, codes, decisions, directives, guidelines, instruments, interpretations, manuals, notices, publications, recommendations, regulations, resolutions, rules or any other similar medium of the International Maritime Organisation or any other body or organisation with an appropriate knowledge or competence on the subject matter.

Duty to ensure compliance.

8. (1) It shall be the duty of the owner, of the company which has assumed the operation of the ship and of the master to ensure that the ship is in compliance with the provisions of these regulations and the applicable requirements of Annex IV and such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 hereof for each offence.

(2) It shall be the duty of any person –

(a) to whom a direction is given in pursuance of these regulations or Annex IV, or

(b) upon whom an obligation is imposed by these regulations or by Annex IV, or

(c) whom is obliged to comply or ensure compliance with the provisions of these regulations and the applicable requirements of Annex IV

to ensure fulfillment of any such obligation or duty and in default such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 hereof for each offence.

Inspection, detention and other measures in respect of ships.

9. (1) The Registrar-General, or an appropriate inspector, may inspect any ship to which these regulations apply and if satisfied that the ship is not in compliance with the provisions of these regulations and the applicable requirements of Annex IV, the Registrar-General shall take such steps as are deemed necessary to ensure that the ship does not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment and any expenses incurred shall be a charge on the ship, so that the ship shall not be unduly detained or delayed:

Provided that the Registrar-General may permit the ship to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available:

Provided further that, in the case of a non-Maltese ship, such inspection shall be limited to verifying that there is on board in relation to such ship a valid International Sewage Pollution Prevention Certificate in the form prescribed by Annex IV, unless there are clear grounds for believing that the condition of the ship or its equipment do not correspond substantially with the particulars of that certificate.

(2) In the case of a non-Maltese ship, if the Registrar-General takes such steps as specified in subregulation (1) hereof, the Registrar-General shall forthwith notify the maritime Administration and the nearest maritime, consular or diplomatic representative of the flag State of the ship.

(3) Upon receiving evidence that a ship to which these regulations apply has discharged sewage or a mixture containing such substances in violation of the provisions of these regulations and of Annex IV, the Registrar-General shall investigate the matter and may inspect the ship or cause the ship to be inspected by an appropriate inspector or by any other person duly authorised by the Registrar-General, and shall inform the State which has reported the alleged violation as well as the International Maritime Organization of the action taken:

Provided that, if the investigation corroborates the alleged violation of these regulations or Annex IV, the owner or the company which has assumed the operation of the ship and the

master or any other officer or member of the crew of the ship shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 hereof:

Provided further that, in the case of a non-Maltese ship, if the investigation indicates a violation of these regulations or Annex IV, the Registrar-General shall provide the flag State of the ship with the report of such investigation and with evidence, if any, of such violation.

(4) For the purposes of this regulation, the provisions of article 154(2) and (3) of the Act shall apply mutatis mutandis to the Registrar-General and to appropriate inspectors.

Fraud, misuse of certificates, etc.

10. If any person -

(a) intentionally alters a certificate issued for the purposes of these regulations or of Annex IV;

(b) falsely makes a certificate referred to in these regulations or Annex IV;

(c) in connection with any survey required by these regulations or Annex IV knowingly or recklessly furnish false information;

(d) with intent to deceive, use, lend, or allow to be used by another, a certificate referred to in these regulations or Annex IV;

(e) fails to surrender a certificate to be surrendered for the purposes of these regulations of Annex IV,

such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 hereof for each offence.

Prohibition of proceeding to sea without appropriate certificate.

11. (1) No Maltese ship, to which these regulations apply, shall proceed or attempt to proceed to sea on an international voyage unless in possession of a valid International Sewage Pollution Prevention Certificate.

(2) No ship, to which these regulations apply, shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless in possession of a valid International Sewage Pollution Prevention Certificate in respect of such ship.

(3) If a ship proceeds or attempts to proceed to sea on an international voyage, in contravention of the provisions contained in subregulations (1) and (2) hereof, the master of the ship shall be liable to a fine (multa) as provided for in regulation 12 hereof.

(4) The master of every ship to which the provisions of subregulation (2) hereof apply, shall produce to the officer from whom a clearance for the ship is demanded, at the time a clearance for the ship is demanded for a voyage from Malta to a port or place outside Maltese waters, valid certificates referred to in the said subregulation at the time when the ship proceeds to sea on an international voyage, and such clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

(5) Where an exemption certificate issued for the purposes of Annex IV in respect of a ship specifies any conditions on which the certificate is issued and any of those conditions are not complied with, such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 hereof.

Penalties.

12. If the owner, the company which has assumed the operation of the ship, the master of the ship or any other person contravenes the provisions of these regulations, such person shall, on conviction, be liable to a fine (multa) as specified hereunder –

(a) where there is a contravention of regulation 8(1) hereof, a fine (multa) not exceeding five hundred units;

(b) where there is a contravention of regulation 8(2) hereof, a fine (multa) not exceeding five hundred units;

(c) where there is a contravention of regulation 9(3) hereof, a fine (multa) not exceeding ten thousand units;

(d) where there is a contravention of regulation 10 hereof, a fine (multa) not exceeding five hundred units;

(e) where there is a contravention of regulation 11(3) hereof, a fine (multa) not exceeding five hundred units;

(f) where there is a contravention of regulation 11(5) hereof, a fine (multa) not exceeding five hundred units.

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