



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 wherever it may be; and
 - (b) a foreign ship 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.

4 Interpretation

In this Order –

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

“controlled marine area” has the meaning given by section 7 of the Marine Infrastructure Management Act 2016;

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

“harmful substance” means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the MARPOL Convention;

“IMDG Code” has the meaning given by regulation 4 of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022²;

“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” has the meaning given by article 3 of the Merchant Shipping (MARPOL Annex I – Prevention of Pollution by Oil) Order 2019;

“MARPOL Annex II” has the meaning given by article 3 of the Merchant Shipping (MARPOL Annex II – Control of Pollution by Noxious Liquid Substances in Bulk) Order 2020³;

“MARPOL Annex III” has the meaning given by article 4 of the Merchant Shipping (MARPOL Annex III – Prevention of Pollution by Harmful Substances) Order 2015;

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

“MARPOL Protocol I” means Protocol I to the MARPOL Convention including all amendments made to that Protocol up to and including those adopted by IMO Resolution MEPC.68 (38) on 10 July 1996 and which came into force on 1 January 1998;

“noxious liquid substances” has the meaning given by article 3 of the Merchant Shipping (MARPOL Annex II – Control of Pollution by Noxious Liquid Substances in Bulk) Order 2020;

“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

² SD2022/0294

³ SD2020/0231

assuming that responsibility has agreed to take over all the duties and responsibilities imposed by the MARPOL Convention;

“packaged form” definition omitted by SD2020/0427; “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 Isle of Man as that term is defined in section 1(1) of the Territorial Sea Act 1987⁴ (as applied to the Island); and*

(b) *the controlled marine area.*

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 –*
 - (i) *in the case of a body corporate, to a fine; or*
 - (ii) *in the case of an individual, to a fine or custody for a term not exceeding 2 years, or both; or*
 - (b) *on summary conviction, to a fine not exceeding level 5 on the standard scale.*

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

⁴ 1987 C.49, as extended to the Island by SI 1991/1722

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.
- (2) *For the purposes of paragraph 1(b) “harmful substances in packaged form” means any substance which is identified as a marine pollutant in the IMDG Code.*

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

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

(2) For the purposes of MARPOL Protocol I Article 5 (Reporting Procedures) the procedures which must be followed in reporting incidents involving harmful substances are specified in MSN 072.

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) *Omitted by SD2020/0427.*
- (4) *Omitted by SD2020/0427.*
- (5) *Omitted by SD2020/0427.*

PART 3 – CONSEQUENTIAL AMENDMENTS

11 Consequential amendments

- (1) The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995⁵ are revoked.
- (2) The Merchant Shipping (Prevention and Control of Pollution) Order 1987⁶ 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 2001⁷ 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 any other Manx statutory provision relating directly, or indirectly, to merchant shipping. **7B**

⁵ SD 128/95

⁶ GC 132/87

⁷ SD 815/01

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.

Amendments:

This Order is marked with amendments (*in bold italics*) made to them by –

Section 55 of the Interpretation Act 2015 which increase the fines with effect from 1 January 2018.

SD2020/0231 Merchant Shipping (MARPOL Annex II – Control of Pollution by Noxious Liquid Substances in Bulk) Order 2020.

SD2020/0427 Merchant Shipping (MARPOL Amendments) Order 2020 which amends the application of the Order so that it is not limited to a ship carrying harmful substances (as Protocol I requires reporting in other circumstances) and specifies in Article 9 the procedures which must be followed in reporting incidents involving harmful substances.

SD2022/0294 Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022.

The functions in these Regulations have been transferred from the Department of Economic Development to the Department for Enterprise by the Transfer of Functions (Economic Development and Education) Order 2017 (SD2017/0325) with effect from 24 November 2017.