



MERCHANT SHIPPING (SOLAS VI - CARRIAGE OF CARGOES AND OIL FUELS) REGULATIONS 2021

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Statutory Document No. 2021/0215



Merchant Shipping Act 1985

MERCHANT SHIPPING (SOLAS VI - CARRIAGE OF CARGOES AND OIL FUELS) REGULATIONS 2021

Laid before Tynwald: 20 July 2021
Coming into Operation: 1 August 2021

The Department for Enterprise, having carried out the consultation required by section 1(1) and section 2(2) of the Merchant Shipping Act 1985, makes the following Regulations under section 1 and section 2 of that Act.

PART 1 – INTRODUCTORY

1 Title

These Regulations are the Merchant Shipping (SOLAS VI - Carriage of Cargoes and Oil Fuels) Regulations 2021.

2 Commencement

These Regulations come into operation on 1 August 2021.

3 Interpretation

In these Regulations –

“**cargo**” means any cargo which, owing to its particular hazard to ships or persons on board, may require special precautions, with the exception of liquids carried in bulk and gases carried in bulk;

“**company**” in relation to a ship means –

- (a) the owner of a ship; or
- (b) any other organisation or person (for example, the manager, or bareboat charterer of the ship) –
 - (i) that has assumed responsibility for operation of the ship from the owner; and

- (ii) that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the SOLAS Convention;

“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;

“grain” includes wheat, maize (corn), oats, rye, barley, rice, pulses, seeds and processed forms thereof whose behaviour is similar to that of grain in its natural state;

“IMO” means the International Maritime Organization;

“IMSBC Code” means the International Maritime Solid Bulk Cargoes (IMSBC) Code adopted by IMO Resolution MSC.268(85) on 4 December 2008 including all amendments made to that Code up to and including those adopted by IMO Resolution MSC.462(101) on 13 June 2019 which came in to force on 1 January 2021;

“inspector” means a person appointed as an inspector under section 3 of the Merchant Shipping Act 1985;

“International Grain Code” means the International Code for the Safe Carriage of Grain in Bulk adopted by IMO Resolution MSC.23(59) on 23 May 1991 which came in to force on 1 January 1994;

“international voyage” means a voyage from a country to which the SOLAS Convention applies to a port outside such country, or conversely;

“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);

“MSN” means a Manx Shipping Notice issued by the Department, and includes any document which amends that notice;

“RO” means any of the recognised organisations specified in MSN 020;

“shipper” means any person who, as principal or agent for another, consigns goods for carriage by sea;

“SOLAS Convention” means the International Convention for the Safety of Life at Sea 1974, as amended by the 1988 Protocol;

“SOLAS Chapter 1” has the meaning given by regulation 3 (Interpretation) of the Merchant Shipping (Survey and Certification) Regulations 2018¹;

“SOLAS Chapter VI” means Chapter VI of the SOLAS Convention including all amendments made to that Chapter up to and including those adopted by

¹ SD2018/0088

IMO Resolution MSC.380(94) on 21 November 2014 which came into force on 1 July 2016;

“**Solid bulk cargo**” means any cargo, other than liquid or gas, consisting of a combination of particles, granules or any larger pieces of material generally uniform in composition, which is loaded directly into the cargo spaces of a ship without any intermediate form of containment;

“**terminal**” means any terminal, jetty, pier, floating structure or other works within a harbour at which ships can obtain shelter or ship and unship goods or passengers;

“**terminal representative**” means a person appointed by the terminal or other facility, where the ship is loading or unloading, who has responsibility for operations conducted by that terminal or facility with regard to the particular ship; 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 1987² (as applied to the Island); and
- (b) the controlled marine area.

4 Application

(A1) *These Regulations apply to the carriage of all cargoes, but are subject to any requirements of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022 and the Merchant Shipping (MARPOL Annex III – Prevention of Pollution by Harmful Substances) Regulations 2015, in respect of the carriage of dangerous goods and harmful substances and where any requirement in those Regulations regulates an aspect of carriage otherwise provided for in these Regulations, those Regulations shall apply to that extent, and not these.*

(1) Parts 1 and 2 apply to a Manx ship wherever it may be, when loaded or intended to be loaded with any cargo.

This is subject to paragraph (5).

(2) Parts 1 and 3 apply to a foreign ship which engages on international voyages, when loaded or intended to be loaded with any cargo whilst it is within the territorial waters of the Island.

This is subject to paragraph (5).

(3) Parts 1 and 4 apply to a shipper.

(4) Parts 1 and 5 apply to a terminal representative.

(5) These Regulations do not apply to –

² 1987 C.49 as extended to the Island by SI 1991/1722

- (a) pleasure vessels;
- (b) fishing vessels;
- (c) ships of war and troopships;
- (d) ships not propelled by mechanical means;
- (e) wooden ships of primitive build; and
- (f) ships solely navigating the Great Lakes of North America and the River St Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

5 Company Responsibility

- (1) A company must ensure that the ship complies with such of the requirements of these Regulations as apply in relation to a ship of its description.
- (2) Paragraph (1) applies whether or not these Regulations impose an obligation on another person.
- (3) A company 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 Provisions relating to offences

- (1) It is a defence for a person charged with an offence under these Regulations to show that the person took all reasonable steps to avoid the commission of the offence.
- (2) If the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person —
 - (a) commits the offence; and
 - (b) may be charged with and convicted of the offence by virtue of these Regulations,whether or not proceedings are taken against the first-mentioned person.

PART 2 – MANX SHIPS

7 Requirements for the carriage of solid bulk cargoes other than grain

- (1) Subject to paragraphs (2) to (11), a ship must comply with such of the requirements of SOLAS Chapter VI as is applicable to a ship of its description.
- (2) The power, provided for in SOLAS Chapter VI, regulation 1 (Application), to exempt a cargo ship of less than 500gt from the application of specific requirements of part A or B of SOLAS Chapter VI –
 - (a) is exercisable by the Department only;
 - (b) will not be exercised –
 - (i) in respect of a specified voyage unless the Department is reasonably satisfied that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements of part A or B of SOLAS Chapter VI unreasonable or unnecessary;
 - (ii) without the Department's contemporaneous imposition on the ship of the duty to implement specified measures to ensure the ship's safety.
- (3) For the purpose of SOLAS Chapter VI regulation 1(2) (Application), the appropriate information on cargo and its stowage and securing, specifying, in particular, precautions necessary for the safe carriage of such cargoes is specified in MSN 074.
- (4) For the purposes of SOLAS Chapter VI regulation 3 (Oxygen Analysis and Gas Detection Equipment), the appropriate instrument for measuring the concentration of gas or oxygen in the air and the training to ensure the crews of ships are trained in the use of such instruments is specified in MSN 074.
- (5) For the purposes of SOLAS Chapter VI regulation 4 (The Use of Pesticides in Ships), the appropriate precautions to be taken in the use of pesticides in ships, in particular for the purposes of fumigation are specified in MSN 074.
- (6) For the purposes of SOLAS Chapter VI regulation 5(3) (Stowage and Securing), the appropriate precautions to be taken during loading and transport of heavy cargoes or cargoes with abnormal physical dimensions are specified in MSN 074.
- (7) For the purposes of SOLAS Chapter VI regulation 5(4) (Stowage and Securing), the appropriate precautions to be taken during loading and transport of cargo units and cargo transport units on board ro-ro ships, are specified in MSN 074.

- (8) For the purposes of SOLAS Chapter VI regulation 5(6) (Stowage and Securing), the Cargo Securing Manual must be drawn up to a standard at least equivalent to relevant guidelines developed by the IMO specified in MSN 056.
- (9) For the purposes of SOLAS Chapter VI regulation 6 (Acceptability for Shipment), the method of providing comprehensive information on the ship's stability and on the distribution of cargo for the standard loading conditions is specified in MSN 074.
- (10) If there is a footnote in SOLAS Chapter VI, and it is clear from the wording and the context that the content of the footnote or of a document referred to in the footnote is intended to form part of the requirement, then such content must be treated as part of the requirement.
- (11) Unless the context clearly indicates otherwise, references to "Administration" in SOLAS Chapter VI are to be read as references to the Department or RO, subject to any more specific provision in these Regulations or MSN 074.

8 Requirement to comply with the IMSBC Code

In accordance with SOLAS Chapter VI, regulation 1-2 (Requirements for the Carriage of Solid Bulk Cargoes other than Grain), the carriage of solid bulk cargoes other than grain must be in compliance with the relevant provisions of the IMSBC Code.

9 Requirement to comply with the International Grain Code

In accordance with SOLAS Chapter VI, regulation 9 (Requirements for Cargo Ships Carrying Grain), in addition to any other applicable requirements of SOLAS Chapter VI, a cargo ship carrying grain must comply with the requirements of the International Grain Code and hold a document of authorisation as required by that Code.

10 Type Approvals

If SOLAS Chapter VI or any part of a code applied by SOLAS Chapter VI requires anything to be type approved, it must be type approved in accordance with MSN 074.

11 Exemptions

- (1) The power, provided for in SOLAS Chapter 1, regulation 4(a) (Exemptions), to exempt from any of the requirements of SOLAS Chapter VI a ship which –
 - (a) is not normally engaged on international voyages; but

- (b) is, in exceptional circumstances, required to undertake a single international voyage,
is exercisable by the Department only.
- (2) The Department will not grant an exemption under paragraph (1) unless the ship for which the exemption is sought complies with safety requirements which the Department reasonably considers adequate for the voyage to be undertaken.
- (3) The Department reserves the right to, with or without conditions, exempt from any or all of the provisions of these Regulations a Manx ship or class or description of Manx ship not engaged on international voyages.

12 Equivalent Arrangements

- (1) This regulation applies only where, in accordance with SOLAS Chapter 1 regulation 5 (Equivalents), SOLAS Chapter VI requires that –
 - (a) a particular fitting, material, appliance or apparatus, or type thereof, must be fitted or carried in a ship;
 - (b) any particular provision must be made in respect of the ship.
- (2) In such a case, the Department reserves the right to permit an “equivalent arrangement” by which it allows –
 - (a) any other fitting, material, appliance or apparatus, or type thereof, to be fitted or carried;
 - (b) any other provision to be made in respect of the ship.
- (3) The Department will not permit an equivalent arrangement unless it is reasonably satisfied, by trial or otherwise, that the equivalent arrangement will be at least as effective as the requirements referred to in paragraph (1) would be.

13 Validity of approvals, type approvals, exemptions and equivalent arrangements

- (1) An approval or type approval required by SOLAS Chapter VI, or an exemption or equivalent arrangement permitted by SOLAS Chapter 1 is only valid if –
 - (a) it is in writing;
 - (b) it specifies the date on which it takes effect; and
 - (c) any conditions stated in it are complied with.
- (2) An exemption issued to a Manx ship in accordance with regulation 11 is only valid if –
 - (a) it is in writing;

- (b) it specifies the date on which it takes effect; and
- (c) any conditions stated in it are complied with.

PART 3 — FOREIGN SHIPS

14 Requirement to comply with SOLAS Chapter VI, the IMSBC Code and the International Grain Code

A foreign ship in the territorial waters of the Island must comply with such of the requirements of —

- (a) SOLAS Chapter VI;
- (b) the IMSBC Code; and
- (c) the International Grain Code;

as apply in relation to a ship of its description.

15 Inspection of a foreign ship in port

A foreign ship in a port of the Island may be subject to inspection by an inspector to verify compliance with the requirements of regulation 14.

16 Provisions relating to detention

- (1) Subject to paragraph (3), if an inspector carries out an inspection in accordance with regulation 15 and finds the foreign ship or its equipment is not in compliance with the requirements of regulation 14, the inspector may take the necessary steps to secure the detention of the ship.
- (2) A foreign ship detained in accordance with paragraph (1) must not be permitted to sail unless it can proceed to sea or to the nearest appropriate repair yard available without danger to the foreign ship or persons on board.
- (3) If an inspection is conducted or when measures are taken in accordance with paragraph (1), all reasonable efforts must be made to ensure that the period of detention or delay of a foreign ship is not unreasonable.
- (4) Where a foreign ship is liable to be detained under this regulation, section 74 of the Merchant Shipping Registration Act 1991 (detention of ships) has effect with the following modifications —
 - (a) in both subsections (1) and (2), after “any officer of the Department,” insert “or any inspector, ”;
 - (b) a reference to “inspector” in that section as modified means an inspector appointed under section 3 of the Merchant Shipping Act 1985; and

- (c) in subsection (3), for “this Act” (wherever occurring) substitute ~~the~~ the Merchant Shipping (SOLAS Chapter VI – Carriage of Cargoes and Oil Fuels) Regulations 2021 ~~Act~~.

PART 4 – RESPONSIBILITY OF THE SHIPPER

17 Shipper’s requirement to comply

- (1) A shipper must comply with the requirements of SOLAS Chapter VI regulation 2 (Cargo information).
- (2) For the purposes of SOLAS Chapter VI regulation 1(2) (Application) and regulation 2(1) (Cargo information), the appropriate information on the cargo is specified in MSN 074.
- (3) In paragraph (2), “the appropriate information on the cargo” in relation to a particular ship means information –
 - (a) regarding necessary precautions for the proper stowage and safe carriage of the cargo to be carried by the ship; and
 - (b) that is communicated sufficiently in advance of the loading of the cargo onto the ship to enable the necessary precautions to be fully taken.
- (4) For the purposes of SOLAS Chapter VI regulation 2(4)(2) (Cargo information), the certified method of weighing all packages and cargo items is specified in MSN 074.
- (5) A shipper 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.

PART 5 – RESPONSIBILITY OF THE TERMINAL REPRESENTATIVE

18 Terminal representative’s requirement to comply

- (1) A terminal representative must comply with the requirements of SOLAS Chapter VI regulation 7(3), 7(4) and 7(5) (Loading, unloading and stowage of solid bulk cargoes).

- (2) A terminal representative who fails to comply with paragraph (1) commits an offence and is liable —
- (a) on conviction on information 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.

PART 6 – REVOCATION

19 Revocation

The Merchant Shipping (Carriage of Cargoes) Regulations 2006³ are revoked.

MADE 25 JUNE 2021

LAURENCE SKELLY
Minister for Enterprise

³ SD276/06



EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to SOLAS Chapter VI – Carriage of Cargoes and Oil Fuels, including all amendments made to that Chapter up to and including those adopted by IMO Resolution MSC.380(94) on 21 November 2014 which came into force on 1 July 2016.

Subject to Regulation 4(5), these Regulations apply to all Manx ships wherever they may be and foreign ships whilst they are within the territorial waters of the Island, carrying cargoes (except liquids in bulk, gases in bulk and those aspects of carriage specified by other chapters of the SOLAS Convention) which, owing to their particular hazards to ships or persons on board, may require special precautions.

The International Maritime Solid Bulk Cargoes (IMSBC) and the International Grain Code are mandatory codes under SOLAS Chapter VI. Regulation 8 requires a ship to comply with the International Maritime Solid Bulk Cargoes (IMSBC), and regulation 9 requires a ship to comply with the International Grain Code.

In addition to regulating ships, SOLAS Chapter VI contains requirements which apply to shippers and terminal representatives. Part 4 of these Regulations gives effect to the requirements in SOLAS Chapter VI which apply to shippers and Part 5 gives effect to the requirements which apply to terminal representatives.

These Regulations come into operation on 1 August 2021.

Further information on compliance with these Regulations can be found in MSN 074.

These Regulations revoke and replace the Merchant Shipping (Carriage of Cargoes) Regulations 2006 (SD276/06).

Copies of this document and Manx Shipping Notices are obtainable from the Isle of Man Ship Registry, Department for Enterprise, 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 Safety of Life at Sea 1974, its Protocol, IMO resolutions and circulars can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR and can be accessed via their website: <http://www.imo.org>

These Regulations are marked with amendments (*in bold italics*) made to them by:

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