

Order on reporting of information on dangerous or polluting goods on board ships¹

Pursuant to section 40(1) and (2), section 48(1) and (2), section 55a and section 61(1) of the act on protection of the marine environment (*lov om beskyttelse af havmiljøet*), cf. consolidated act no. 1616 of 10 December 2015, the following provisions are laid down in accordance with section 2(1) of order no. 973 of 29 August 2014 on the transfer of tasks and powers to the Nature Agency:

Part 1

Application

Section 1. This order shall apply to all ships irrespective of size.

Subsection 2. This order shall, however, not apply to:

- 1) warships and other ships owned or operated by a State so long as the ship is used exclusively for non-commercial State service, cf. section 2(2) of the act;
- 2) fishing vessels, traditional ships and recreational craft with a length below 45 m;
- 3) bunkers on ships with a gross tonnage below 1000 and stores rooms and equipment for use on board the ship.

Part 2

Definitions

Section 2. For the purposes of this order, the following definitions shall apply:

- 1) MARPOL: The International Convention 1973/78 for the Prevention of Pollution from Ships, including protocols and subsequent amendments.
- 2) SOLAS: The 1974 International Convention for the Safety of Life at Sea, including protocols and subsequent amendments.
- 3) ISM Code: International Code for the Safe Operation of Ships.
- 4) IMDG Code: International Code for the transport of dangerous goods in packaged form.
- 5) IBC Code: The International Code for construction and equipment of ships carrying dangerous chemicals in bulk, adopted by resolution MEPC.19(22), as amended.
- 6) IGC Code: The International Code for construction and equipment of ships carrying liquefied gases in bulk.

¹ This order contains provisions implementing parts of European Parliament and Council Directive 2002/59/EC of 27 June 2002 establishing a Community vessel traffic monitoring and information system within the Community and repealing Council Directive 93/75/EEC, Official Journal 2002 L 208, page 10, as amended by directive 2009/17/EC of the European Parliament and of the Council of 23 April 2009, Official Journal 2009, no. L 131, page 101, and Commission Directive 2011/15/EU of 23 February 2011, Official Journal 2011, no. L 49, page 33, as well as directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing directive 2002/6/EC, Official Journal 2010, no. L 283, pages 1-10.

- 7) IMSBC Code: The International Code for the transport of dangerous goods in solid form in bulk.
- 8) INF Code: The International Code for the safe carriage of irradiated nuclear fuel, plutonium and highly radioactive wastes in containers on board ships.
- 9) IMO resolution A.851(20): The International Maritime Organization's resolution A.851(20) entitled "General Principles for Ship Reporting Systems and Ship Reporting Requirements. This includes Guidelines for Reporting Incidents involving Dangerous Goods, Harmful Substances and/or Marine Pollutants".
- 10) Operator: A ship's owner or manager in charge of its operation.
- 11) Agent: A person authorized to disclose information on behalf of a ship operator.
- 12) Shipper: Any person entering into or offering a contract with a transport company on the carriage of goods by sea or in whose name or on whose behalf such a contract is concluded.
- 13) Shipowner: Shipping company as defined in chapter IX, regulation 1, item 2, of SOLAS.
- 14) Ship: Any seagoing vessel.
- 15) Traditional ships: All types of historic ships and copies thereof, including those built to support and promote traditional skills and seamanship that together are living treasures operated in accordance with traditional principles of seamanship and technique.
- 16) Dangerous goods:
 - a) Goods listed in the IMDG Code.
 - b) Liquid hazardous substances listed in chapter 17 of the IBC Code.
 - c) Liquefied gases listed in chapter 19 of the IGC Code.
 - d) Solids listed in attachment 1, group B, of the IMSBC Code.
 - e) Carriage of goods where specified pre-conditions are set in accordance with item 1.1.3 of the IBC Code or item 1.1.6 of the IGC Code.
- 17) Polluting goods:
 - a) Oil as defined in MARPOL, annex I.
 - b) Noxious liquid substances as defined in the IBC Code, chapter 17.
 - c) Dangerous substances as defined in the IMDG Code.
- 18) Address: Name and communication links whereby contact may, if necessary, be made with the operator, agent, port authority, competent authority or any other authorized person or organization in possession of detailed information about the cargo.
- 19) SafeSeaNet: EU's maritime information exchange system developed by the Commission in cooperation with the Member States for implementing Community law.
- 20) Scheduled services: A series of voyages between the same two or more ports, either according to a published timetable or so regular or frequent that they constitute a systematic service. A route is only considered a regular service if it is operated at least for a month.
- 21) Fishing vessel: Any vessel equipped for commercial exploitation of living aquatic resources.
- 22) Port: Any port, pilot station or anchorage.
- 23) Recreational craft: Craft used exclusively for recreational purposes.
- 24) Competent authority: The authority or organization designated to perform duties under this order; the Admiral Danish Fleet.

Part 3

Declaration on dangerous and polluting goods, etc.

Section 3. Irrespective of their size, ships in a Danish port shall not offer for carriage or loading dangerous or polluting goods unless a statement has been delivered to the master or operator prior to the ship being loaded with the information required according to the list in annex 1.

Subsection 2. Ships departing from a port outside the EU and carrying dangerous or polluting goods on board and bound for a Danish port shall be in possession of a declaration by the shipper with the information required as according to the list in annex 1.

Subsection 3. It is the shipper's duty and responsibility to give a declaration in accordance with this order to the master or to the operator and to ensure that the shipment offered for carriage is indeed the one covered by the declaration, cf. subsection 1.

Part 4

Notification of dangerous or polluting goods on board

Section 4. When a ship carrying dangerous or polluting goods on board leaves a Danish port, the operator, agent or master of the ship shall – before departure – report the information required according to the list in annex 2 to the Admiral Danish Fleet.

Subsection 2. The operator, agent or master of a ship coming from a port outside the EU and carrying dangerous or polluting goods on board and bound for a Danish port shall, at the latest upon departure from the port of departure, report the information required according to the list in annex 2 to the Admiral Danish Fleet. If the destination port is not known when sailing from the port of departure, the information shall be notified as soon as the destination port is known.

Subsection 3. The information mentioned in subsections 1-2 shall be submitted electronically via Safe-SeaNet.

Part 5

Exemptions and supervision

Section 5. The Nature Agency may exempt individual ships on a specific route between Danish ports with a planned crossing time of not more than 12 hours from the provisions of section 4(1) if the following conditions are met:

- 1) The company concerned shall update a list of its scheduled services and send it to the Nature Agency;
- 2) The information in annex 2 shall for each crossing be made available to the Admiral Danish Fleet upon request. The company shall establish an internal system enabling it to send the above-mentioned information to the Admiral Danish Fleet electronically 24-hours-a-day immediately after receiving a request; and
- 3) Any difference from the estimated time of arrival at the port of destination of 3 hours or more shall be notified to the Admiral Danish Fleet in accordance with the provisions of section 4(1).

Subsection 2. For individual ships operating a specific international route with a planned crossing time of not more than 12 hours between Denmark and one or more other countries, at least one of which is an EU

Member State, the Nature Agency may grant exemptions in accordance with the provisions of subsection 1. The Nature Agency may grant exemptions in accordance with the provisions of subsection 1 if one of the involved EU Member States so requests for the crossing concerned.

Subsection 3. Application for exemption under subsections 1-2 shall be forwarded to the Nature Agency.

Subsection 4. The Nature Agency shall send a list of the companies and ships that have been granted exemptions under subsections 1-2 and all updates of the list to the Admiral Danish Fleet and the European Commission.

Subsection 5. Exemption under subsections 1-2 shall be cancelled immediately if any of the conditions for exemption no longer applies.

Section 6. The Nature Agency shall supervise that the rules stipulated in this order are complied with.

Subsection 2. The Nature Agency shall every year no later than by 1 March check that the conditions of section 5 (1)-(2) are met and that the internal system established pursuant to section 5(1)(ii) functions satisfactorily.

Part 6

Handling of information

Section 7. Information received by the Danish authorities from foreign authorities pursuant to directive 2002/59/EC, as amended by directive 2009/17/EC, as well as information received by the Danish authorities pursuant to this order shall – with the limitations following from the general provisions of EU law and Danish law, including the open administration act (*lov om offentlighed i forvaltningen*) – be handled confidentially.

Subsection 2. Information received pursuant to subsection 1 shall not be used contrary to directive 2002/59/EC, as amended by directive 2009/17/EC.

Part 7

Appeals

Section 8. Decisions made by the Nature Agency under this order shall not be appealed to any other administrative authority.

Part 8

Penalty

Section 9. Unless a stricter penalty is due pursuant to other legislation, anyone shall be liable to punishment by fine who:

- 1) in violation of section 3(1) offers to transport or load dangerous or polluting goods;

- 2) is responsible for a ship departing from a port outside the EU and carrying dangerous or polluting goods on board, bound for a Danish port without being in possession of a declaration containing the information required under section 3(2);
- 3) makes a declaration under section 3(1)-(2) without ensuring that the shipment offered for carriage is indeed identical to the one covered by the declaration , cf. section 3(3);
- 4) fails to submit a declaration under section 3;
- 5) fails to report information under section 4; or
- 6) gives false or misleading information in connection with the submission of a declaration under section 3, reporting under section 4 or application for exemption under section 5.

Subsection 2. The penalty may be increased to imprisonment for a maximum term of two years if the offender acted deliberately or by gross negligence or if the infringement resulted in:

- 1) damage to the environment or a risk of such damage; or
- 2) achieved or intended economic advantages, including savings, for the offender or for others.

Subsection 3. Subsection 2 shall also apply to offenses committed by foreign ships in internal territorial waters. For violations committed by foreign vessels in outer territorial waters, subsection 2 shall apply only if it is a case of wilful and serious pollution of the marine environment.

Subsection 4. Liability to punishment may be imposed on companies, etc. (legal persons) according to the provisions of part 5 of the criminal code (*straffeloven*).

Part 9

Entry into force

Section 10. The order shall enter into force on 1 January 2016.

Subsection 2. Order no. 1349 of 15 December 2011 on reporting of information on dangerous or polluting goods on board ships shall be repealed.

Nature Agency, 16 December 2015

Oluf Engberg / Anne-Marie Vægter Rasmussen

Information required contained in a declaration under section 3

- 1
 - a) Exact technical name of the dangerous or polluting goods;
 - b) UN numbers, if any;
 - c) IMO hazard classes in accordance with the IMDG Code, IBC Code and IGC Code;
 - d) the ship category for INF cargo as defined in regulation VII/14.2;
 - e) the quantities of such goods; and
 - f) if there are other units for transporting the cargo than tanks, their identification numbers.
- 2
 - a) For the substances mentioned in annex I of MARPOL, the material safety data sheet detailing the physicochemical characteristics of the products, including, where appropriate, their viscosity expressed in cSt at 50 °C and their density at 15 °C;
 - b) and the other information in accordance with IMO resolution MSC.286(86) on the recommendation of the material safety data sheets for annex I of MARPOL.
- 3
 - a) Address from which more detailed information on the cargo can be obtained.

Information on the cargo to be reported according to section 4

- 1 The exact technical names of the dangerous or polluting goods, any UN numbers, the IMO hazard classes in accordance with the IMDG Code, IBC Code and IGC Code, the ship's category according to the INF Code, the cargo volume and location on board and, if there are other units for transporting the cargo than tanks, their identification numbers.
- 2 Confirmation that a list, manifest or stowage plan is available on board giving details of the dangerous and polluting goods carried by the ship indicating the location of goods.
- 3 Address from which more detailed information on the cargo can be obtained.