

*Government Notice No. 47 of 2019*

## **THE MERCHANT SHIPPING ACT**

### **Regulations made by the Minister under section 228 of the Merchant Shipping Act**

#### **PART I – PRELIMINARY**

1. These regulations may be cited as the Merchant Shipping (Prevention of Pollution by Oil and Noxious Liquid Substances in Bulk) Regulations 2019.

#### **2. Interpretation**

In these regulations –

“Act” means the Merchant Shipping Act;

“BCH Code” means the Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the IMO by resolution MEPC 20(22);

“Certifying Authority” in respect of a ship, means the authority which issues an IOPP Certificate in respect of that ship;

“IBC Code” means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the IMO by resolution MEPC 19(22);

“IOPP Certificate” means an International Oil Pollution Prevention Certificate;

“INLS Certificate” means an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;

“MARPOL” means the International Convention for the Prevention of Pollution from Ships 1973, its Protocols and Annexes I and II;

“MARPOL member State” means a State which is a party to MARPOL;

“maritime casualty” means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to any vessel or cargo;

“maritime zones” has the meaning as in the Maritime Zones Act;

“Mauritius Ports Authority” means the Mauritius Ports Authority established under the Ports Act;

“noxious liquid substance” means any substance referred to in the Pollution Category column of chapter 17 or 18 of the IBC Code and the Guidelines for the application of Amendments to the list of Substances in Annex II of MARPOL and the IBC and BCH Code with respect to Pollution Hazards, approved by the MEPC of IMO at its 31<sup>st</sup> session.

### **3. Application of regulations**

(1) Subject to regulation (2) and Part III, these regulations shall apply to –

- (a) a Mauritius ship, wherever it may be; and
- (b) a ship while in Mauritius waters.

(2) These regulations shall not apply to –

- (a) a Government ship which is engaged in Government non-commercial service; and

- (b) a warship, a naval auxiliary or other ships owned or operated by a MARPOL Member State and used for the time being only in Government non-commercial service.

**4. MARPOL to have force of law**

MARPOL shall have the force of law in Mauritius.

**5. Non-MARPOL Member States**

No more favourable treatment shall be given to ships of States which are not MARPOL Member States.

**PART II – Compliance with Annex I of MARPOL**

**6. Initial, periodical and intermediate surveys under Annex I of MARPOL**

(1) Every Mauritius oil tanker of 150 gross tonnage and above, and every other Mauritius ship of 400 gross tonnage and above, shall be subject to the following surveys –

- (a) an initial survey before the ship is put in service or before an IOPP Certificate in respect of the ship is issued for the first time;
- (b) periodical surveys at intervals not exceeding 5 years; and
- (c) a minimum of one intermediate survey during the period of validity of the IOPP Certificate, which shall be held not before 6 months prior to, nor not later than 6 months after, the half-way date of the certificate's period of validity where only one such intermediate survey is carried out in any one IOPP Certificate validity period.

(2) The initial survey and the periodical survey shall be carried out to ensure that the structure, equipment, systems, fittings, arrangements and material comply with these regulations.

(3) (a) The intermediate survey shall be carried out to ensure that the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, crude oil washing systems, oil-water separating equipment and oil filtering systems, comply with these regulations and are in good working order.

(b) After satisfactory completion of the intermediate survey carried out pursuant to subparagraph (a), the surveyor shall endorse the IOPP Certificate to that effect.

## **7. Issue of IOPP Certificate**

(1) After satisfactory completion of an initial or a periodical survey of a Mauritius ship carried out in accordance with regulation 6(1) and (2), the Certifying Authority shall issue an IOPP Certificate to that ship which is –

- (a) an oil tanker of 150 gross tonnage and above; or
- (b) any other ship of 400 gross tonnage and above; and
- (c) engaged in voyages to ports or offshore terminals under the jurisdiction of other MARPOL States.

(2) The Director may, at the request of another MARPOL State, cause a ship registered in that State and entitled to fly the flag of that State to be surveyed, and where he is satisfied that the requirements of Annex I of MARPOL are complied with, he may issue or authorise the issue of an IOPP Certificate to that ship.

(3) An IOPP Certificate issued in accordance with paragraph (2) shall contain a statement to the effect that it has been issued at

the request of that MARPOL State and it shall have the same force and receive the same recognition as an IOPP Certificate issued under paragraph (1).

(4) The Director may request another MARPOL State to survey a Mauritius ship and where he is satisfied that Annex I of MARPOL is complied with, he may issue an IOPP Certificate to that ship.

(5) An IOPP Certificate issued in accordance with paragraph (4) shall have the same force and receive the same recognition as an IOPP Certificate issued under paragraph (1).

(6) An IOPP Certificate shall not be issued to a ship which flies the flag of a State which is not a MARPOL State.

(7) The IOPP Certificate shall be kept on board the ship and shall be available for inspection at all reasonable times.

## **8. Form and duration of IOPP Certificate**

(1) An IOPP Certificate shall be in the form approved by the Director and shall be valid for a period not exceeding 5 years from the date of issue.

(2) An IOPP Certificate shall cease to be valid where –

- (a) without the approval of the Director, significant alterations have taken place to the construction, equipment, systems, fittings, arrangements or material required under these regulations, other than the direct replacement of equipment or fittings;
- (b) the intermediate survey required under regulation 6(1) is not carried out within the period specified in that regulation; or

(c) the ship transfers to the flag of another State.

(3) Where a ship is transferred to the Mauritius flag from the flag of another State, a new IOPP Certificate shall only be issued to the ship where the Certifying Authority is satisfied that the ship complies with these regulations.

## **9. Discharge of oil or oily mixture into sea**

(1) Subject to paragraph (2), the discharge of oil or oily mixture into the sea shall be prohibited unless –

- (a) it is necessary for the purpose of securing the safety of a ship or saving life at sea;
- (b) it results from damage to a ship or its equipment, provided that –
  - (i) all reasonable precautions were taken after the occurrence of the damage or discovery of the discharge to prevent or minimise the discharge; and
  - (ii) neither the owner nor the master acted either with intent to cause damage or recklessly and with knowledge that damage would probably result; or
- (c) the substance is approved by the Director of Environment for use in combating specific pollution incidents in order to minimise the damage from pollution and the discharge is made with the approval of the Director of Environment, or where the discharge is to be made outside the maritime zones of a State other than Mauritius, with the approval of that other State.

(2) Any discharge of oil or oily mixture into the sea shall be made in accordance with Annex I of MARPOL.

### **10. Shipboard oil pollution emergency plan**

(1) Every Mauritius oil tanker of 150 gross tonnage and above and every Mauritius ship other than an oil tanker of 400 gross tonnage and above shall carry on board a shipboard oil pollution emergency plan approved by the Director.

(2) The shipboard oil pollution emergency plan shall be prepared in accordance with Annex I of MARPOL.

(3) In the case of ships to which Part III applies, the shipboard oil pollution plan may be combined with the shipboard marine pollution emergency plan for noxious liquid substances required under Annex II of MARPOL.

### **11. Oil Record Book**

(1) Every Mauritius oil tanker of 150 gross tonnage and above and every ship, other than an oil tanker, of 400 gross tonnage and above shall be provided with an Oil Record Book which shall be in such form as the Director may approve.

(2) The Oil Record Book shall be completed on each occasion, on a tank-to-tank basis if appropriate, whenever any of the following machinery space operations takes place on the ship –

- (a) ballasting or cleaning of oil fuel tanks;
- (b) discharge of dirty ballast or cleaning water from oil fuel tanks;
- (c) collection and disposal of oil residues, including sludge and other oil residues;

- (d) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces; and
- (e) bunkering of fuel or bulk lubricating oil.

(3) (a) Every operation referred to in paragraph (2) shall be fully recorded without delay in the Oil Record Book, so that all entries in the book appropriate to that operation are completed.

(b) Every completed operation shall be signed by the officer or officers in charge of the operations concerned and each completed page shall be signed by the master of ship.

(4) In the event of any discharge of oil or oily mixture as provided for under regulation 9 or in the event of accidental or other exceptional discharge of oil, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge.

(5) Any failure of the oil filtering equipment shall be recorded in the Oil Record Book.

(6) The Oil Record Book shall be kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship.

(7) The Oil Record Book shall be preserved for a period of 3 years after the last entry has been made.

### **PART III – Compliance with Annex II of MARPOL**

#### **12. Application of Part III**

(1) This Part shall apply to all ships carrying noxious liquid substances in bulk.

(2) Where a cargo subject to Annex II of MARPOL is carried in cargo space of a chemical tanker, Annex II of MARPOL shall apply.

### **13. Categorisation and listing of noxious liquid substances and other substances**

The categorisation and listing of noxious liquid substances shall be as provided for under Annex II of MARPOL and shall include –

- (a) Category X, being noxious liquid substances which, if discharged into the sea from tank cleaning or de-ballasting operations, shall be deemed to present a major hazard to either marine resources or human health and, therefore, justify the prohibition of the discharge into the marine environment;
- (b) Category Y, being noxious liquid substances which, if discharged into the sea from tank cleaning or de-ballasting operations, shall be deemed to present a hazard to either marine resources or human health or cause harm to amenities or other legitimate uses of the sea and, therefore, justify a limitation on the quality and quantity of the discharge into the marine environment;
- (c) Category Z, being noxious liquid substances which, if discharged into the sea from tank cleaning or de-ballasting operations, shall be deemed to present a minor hazard to either marine resources or human health and, therefore, justify less stringent restrictions on the quality and quantity of the discharge into the marine environment; and
- (d) other substances, being substances indicated as OS (Other substances) in the pollution category column

of chapter 18 of the International Bulk Chemical Code which have been evaluated and found to fall outside category X, Y or Z.

#### **14. Shipboard marine pollution emergency plan for noxious liquid substances**

(1) There shall be on board every Mauritius ship –

- (a) of 150 gross tonnage and above; and
- (b) certified to carry noxious liquid substances in bulk,

a shipboard marine pollution emergency plan for noxious liquid substances approved by the Director.

(2) The shipboard marine pollution emergency plan shall be prepared in accordance with Annex II MARPOL.

#### **15. Initial periodical and intermediate surveys under Annex II of MARPOL**

(1) Every Mauritius ship carrying noxious liquid substances in bulk shall be subject to the following surveys –

- (a) an initial survey before the ship is put in service or before an INLS Certificate is issued for the first time;
- (b) periodical surveys at intervals not exceeding 5 years;
- (c) a minimum of one intermediate survey during the period of validity of the INLS Certificate, which shall be held not before 6 months prior to, nor later than 6 months after, the half-way date of the certificate's period of validity where only one such intermediate survey is carried out in any one INLS Certificate validity period; and

(d) an annual survey within 3 months before or after the date of issue of the INLS Certificate.

(2) The initial survey and the periodical survey shall be carried out to ensure that the structure, equipment, systems, fittings, arrangements and material comply with these regulations.

(3) The intermediate survey shall be carried out to ensure that the equipment, associated pump and piping systems comply with these regulations and are in good working order.

(4) The annual survey shall include a general examination to ensure that the structure, fittings, arrangements and materials remain in all respects satisfactory for the service for which the ship is intended.

(5) After satisfactory completion of the intermediate and annual surveys carried out in accordance with paragraphs (3) and (4), respectively, the surveyor shall endorse the INLS Certificate to that effect.

## **16. Issue of INLS Certificate**

(1) After satisfactory completion of an initial or a periodical survey of a Mauritius ship carried out in accordance with regulation 15(1) and (2), the Certifying Authority shall issue an INLS Certificate to that ship.

(2) The Director may, at the request of another MARPOL State, cause a ship registered in that State and entitled to fly the flag of that State to be surveyed, and where he is satisfied that the requirements of Annex II of MARPOL are complied with, he may issue or authorise the issue of an INLS Certificate to that ship.

(3) An INLS Certificate issued in accordance with paragraph (2) shall contain a statement to the effect that it has been issued at

the request of that MARPOL State and it shall have the same force and receive the same recognition as an INLS Certificate issued under paragraph (1).

(4) The Director may request another MARPOL State to survey a Mauritius ship and where he is satisfied that Annex II of MARPOL is complied with, he may issue an INLS Certificate to that ship.

(5) An INLS Certificate issued in accordance with paragraph (4) shall have the same force and receive the same recognition as an INLS Certificate issued under paragraph (1).

(6) An INLS Certificate shall not be issued to a ship which flies the flag of a State which is not a MARPOL State.

(7) The INLS Certificate shall be kept on board the ship and shall be available for inspection at all reasonable times.

## **17. Form and duration of INLS Certificate**

(1) An INLS Certificate issued shall be in the form approved by the Director and shall be valid for a period not exceeding 5 years from the date of issue.

- (2) An INLS Certificate shall cease to be valid where –
- (a) without the approval of the Director, significant alterations have taken place to the construction, equipment, systems, fittings arrangements or material required under these regulations, other than the direct replacement of equipment or fittings;
  - (b) the intermediate or annual surveys required under regulation 15(1) are not carried out within the time period specified in that regulation; or

- (c) the ship transfers to the flag of another State.

(3) Where a ship is transferred to the Mauritius flag from the flag of another State, a new INLS Certificate shall only be issued to the ship where the Certifying Authority is satisfied that the ship complies with these regulations.

### **18. Survey and certification of chemical tankers**

Notwithstanding regulations 12, 14 and 15, chemical tankers which have been surveyed and certified by any MARPOL State in accordance with the IBC Code or BCH Code, as applicable, shall be deemed to be complying with these regulations and any certificate issued under the relevant Code shall have the same force and receive the same recognition as the certificate issued under regulation 16.

### **19. Discharge of noxious liquid substances into sea**

(1) Subject to this regulation, the discharge into the sea of noxious liquid substances or mixtures containing such substances shall be prohibited unless –

- (a) it is necessary for the purpose of securing the safety of a ship or saving life at sea;
- (b) it results from damage to a ship or its equipment –
  - (i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge; and
  - (ii) neither the owner nor the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

- (c) the discharge is approved by the Director of Environment when being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.

(2) Where any discharge referred to in paragraph (1) is contemplated to occur in waters within the jurisdiction of another State, the discharge shall be subject to the approval of that State.

(3) The control of discharges of residues of noxious liquid substances or ballast water, tank washings or other mixtures containing such substances shall be made in accordance with Annex II of MARPOL.

(4) The discharge into the sea of residues of substances assigned to category X, Y or Z or of those provisionally assessed as such or ballast water, tank washings or other mixtures containing such substances shall be made in accordance with Annex II of MARPOL.

## **20. Relaxation and exemptions**

(1) (a) Where an amendment to these regulations and the IBC Code and BCH Code involves changes to the structure or equipment and fittings due to the upgrading of the requirements for the carriage of certain substances, the Director may modify or delay, for a specified period, the application of such an amendment, herein referred to as a relaxation, to ships constructed before the commencement of that amendment, if the immediate application of such an amendment is considered unreasonable or impracticable.

(b) The relaxation referred to in paragraph (a) shall be determined with respect to each substance.

(2) The Director may, where a ship which is certified to carry individually identified vegetable oils identified in Chapter 17 of the IBC Code, exempt that ship from the application of this Part in accordance with Chapter I Regulation 4(3) of Annex II of MARPOL.

(3) For a ship whose constructional and operational features are such that ballasting of cargo tanks is not required and cargo tank washing is only required for repair or dry-docking, the Director may allow exemption, provided there is compliance with all the following conditions –

- (a) the design, construction and equipment of the ship are approved by the Director, having regard to the service for which it is intended;
- (b) any effluent from tank washings which may be carried out before a repair or dry-docking is discharged to a reception facility, the adequacy of which is ascertained by the Director;
- (c) the INLS certificate required under this Part indicates –
  - (i) that each cargo tank is certified for the carriage of a restricted number of substances which are comparable and can be carried alternately in the same tank without intermediate cleaning; and
  - (ii) the particulars of the exemption;
- (d) the ship carries a Manual approved by the Director; and
- (e) in the case of ships engaged in voyages to ports or terminals under the jurisdiction of other MARPOL member States, the Director communicates to the

Organisation, for circulation to MARPOL member States, particulars of the exemption, for their information and appropriate action, if any.

#### **PART IV – MISCELLANEOUS**

##### **21. Power to deny entry**

Where the Director –

- (a) has reason to believe that a ship which intends to enter the Port does not comply with these regulations; and
- (b) is satisfied that the ship presents an unreasonable threat of harm to the marine environment if it enters the Port,

he may deny entry of such ship to the Port.

##### **22. Power to detain ships**

(1) Where the Director –

- (a) has reason to believe that a ship in the Port or in any other place in Mauritius has contravened these regulations; or
- (b) is satisfied that a ship presents an unreasonable threat of harm to the marine environment if allowed to proceed at sea,

he may cause the ship to be detained.

(2) A ship which is detained pursuant to paragraph (1) shall be released upon the posting of a reasonable bond or other financial security to the satisfaction of the Director, provided it is able to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

### **23. Equivalent standards**

The Director may allow any fitting, material, appliance or apparatus to be fitted in a Mauritius ship as an alternative to that required under these regulations where that fitting, material, appliance or apparatus is at least as effective as that required under these regulations.

### **24. Responsibilities of owner and master to maintain ship and report accidents and defects**

- (1) Every owner and master of a ship shall ensure that –
  - (a) the condition of the ship and its equipment is maintained in accordance with these regulations; and
  - (b) the ship does not proceed to sea where it presents an unreasonable threat of harm to the marine environment.

(2) Where a survey of a Mauritius ship is completed, no change shall, without the approval of the Director, be made to the structure, equipment, systems, fittings, arrangements or material covered by the survey, except for the replacement of its equipment and fittings.

(3) Where an accident occurs to, or a defect is discovered in, or on, a Mauritius ship which substantially affects the integrity of the ship or the efficiency or completeness of its equipment, the master or owner of the ship shall, at the earliest opportunity and in any case no later than 48 hours after the accident occurs or the defect is discovered, report the accident or defect, as the case may be, to the Director and the nearest coastal State.

(4) Where a foreign ship in Mauritius is involved in an accident, the master or owner of that ship shall report the accident

immediately to the Director and to the State where the ship is registered.

(5) On receipt of a report pursuant to paragraph (3) or (4), the Director shall determine whether a survey is necessary and may, in the circumstances, require a survey to be carried out.

## **25. Violations within Mauritius waters**

(1) Where the Director has reasonable grounds to believe that a ship navigating in territorial waters of Mauritius has contravened these regulations during its passage therein, the Director may cause a physical inspection of the ship relating to the violation to be undertaken and, where the Director is satisfied that the evidence so warrants, he may cause proceedings to be instituted against the owner or master of the ship and may detain the ship.

(2) Where the Director has reasonable grounds to believe that a ship navigating in Mauritius waters has contravened these regulations in the exclusive economic zone of Mauritius, the Director may require the ship to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.

(3) Where the Director has reasonable grounds to believe that a ship navigating in Mauritius waters has contravened these regulations in the exclusive economic zone of Mauritius, resulting in a substantial discharge causing or threatening significant pollution of the marine environment, the Director may cause a physical inspection of the ship to be undertaken to gather evidence relating to the suspected violation, where –

- (a) the ship has refused to give information; or
- (b) the information supplied by the ship is manifestly at variance with the evident factual situation; and

(c) the circumstances of the case justify such inspection.

(4) Where the Director has evidence that a ship navigating in Mauritius waters has contravened these regulations in the exclusive economic zone of Mauritius, resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of Mauritius, or to any resources of its maritime zone, the Director may cause proceedings to be instituted against the owner or master of the ship and may detain the ship.

## **26. Violations by Mauritius ships**

(1) Where the Director has reasonable grounds to believe that a Mauritius ship has contravened these regulations, the Director shall cause the matter to be investigated immediately and shall, where appropriate, cause proceedings to be instituted in respect of the alleged violation irrespective of where it occurred.

(2) The master of a Mauritius ship shall, while the ship is navigating in the territorial sea or exclusive economic zone of another MARPOL State, comply with any reasonable requests for information made by that State for the purposes of establishing whether a violation of MARPOL has occurred in the waters of that State.

## **27. Maritime casualty**

Nothing in these regulations shall prejudice the right of Mauritius to take and enforce measures within and beyond Mauritius waters in accordance with its laws to protect its coastline or related interests from pollution or the threat of pollution following a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences.

**28. Mauritius ships, other than oil tankers, of less than 400 gross tonnage**

(1) Every Mauritius ship, other than an oil tanker, of less than 400 gross tonnage shall, in addition to the other applicable requirements of these regulations, comply with the equipment standards established by the Director for that ship.

(2) Every ship referred to in paragraph (1) shall be subject to appropriate measures established by the Director in order to ensure that the ship comply with these regulations.

**29. Reception facilities**

(1) The master of every ship shall keep documentary evidence of the ship's disposal of –

- (a) oily residues and oily mixtures; and
- (b) residues and mixtures containing noxious liquid substances.

(2) The documentary evidence referred to in paragraph (1) shall be available at all times for inspection.

(3) The Mauritius Ports Authority shall provide, or ensure that there are provided in ports, facilities for the reception from ships of residues referred to in paragraph (1).

(4) Where the disposal referred to in paragraph (2) is done in a port in Mauritius, the reception facility provider shall issue to the ship a certificate, in the form set out in the Schedule, attesting of such disposal.

**30. Offences**

Where the master or owner of a ship fails to comply with these regulations, the owner or master of the ship shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 5 years.

**31. Commencement**

These regulations shall come into operation on 1 March 2019.

Made by the Minister on 12 of February 2019.

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## SCHEDULE [Regulation 29(4)]



### WASTE DELIVERY RECEIPT

The designated representative of the reception facility provider should provide the following form to the master of a ship that has just delivered waste.

This form should be retained on board the vessel along with the appropriate Oil RB or Cargo RB.

#### RECEPTION FACILITY AND PORT PARTICULARS

1.1 Location/Terminal name:
1.2 Reception facility provider(s)
1.3 Treatment facility provider(s) – if different from above:
1.4 Waste Discharge Date and Time from: <span style="float: right;">to:</span>

#### SHIP PARTICULARS

2.1 Name of ship:	2.5 Owner or operator:
2.2 IMO number:	2.6 Distinctive number or letters:
2.3 Gross tonnage:	2.7 Flag State:
2.4 Type of ship: <input type="checkbox"/> Oil tanker <input type="checkbox"/> Chemical tanker <input type="checkbox"/> Bulk carrier <input type="checkbox"/> Container	
<input type="checkbox"/> Other cargo ship <input type="checkbox"/> Passenger ship <input type="checkbox"/> Ro-ro <input type="checkbox"/> Other (specify)	

#### TYPE AND AMOUNT OF WASTE RECEIVED

MARPOL Annex I – Oil	Quantity (m <sup>3</sup> )
Oily bilge water	
Oily residues (sludge)	
Oily tank washings	
Dirty ballast water	
Scale and sludge from tank cleaning	
Other (please specify)	
MARPOL Annex II – NLS	Quantity (m <sup>3</sup> )/Name <sup>1</sup>
Category X substance	
Category Y substance	
Category Z substance	
OS- other substance	

On behalf of the port facility I confirm that the above wastes were delivered.

Signature:

Full Name and Company Stamp:

<sup>1</sup> Indicate the proper shipping name of the NLS involved.