

# Shipping (Dangerous Goods and Harmful Substances in Packaged Form) Regulations 2007

Made by the Minister under sections 138 and 228 of the Shipping Act 2007  
Shipping (Marine Pollution) Act 2007

## PART I General

1. These Regulations may be cited as the Shipping (Dangerous Substances and Harmful Substances in Packaged Form) Regulations 2007. Citation

2. In these Regulations - Interpretation

“the Act” means the Shipping (Marine Pollution) Act 2007;

"BCH Code", "IBC Code" and "IGC Code" have the meanings given by section 85 of the Act;

"Bulk Cargoes Code" means the 1996 edition of the IMO Code of Practice for Solid Bulk Cargoes;

“cargo transport unit” means a road freight vehicle, a railway freight wagon, a freight container, a road tank vehicle, a railway tank wagon and a portable tank;

“classify” means to determine whether goods are dangerous goods or a harmful substance for the purposes of sea transport which is the determination, by appropriate method, of whether the goods possess the hazardous characteristics of classes from 1 to 9 of the IMDG Code in accordance with the most hazardous property of the goods and extends to goods-

- (i) listed in the IMDG Code;
- (ii) not specifically listed but falling within the defining criteria for the classes from 1 to 9 of the IMDG Code; and
- (iii) where there is any cause to suspect that the substance is a harmful substance as defined by the IMDG Code;

“correct technical name” means a description of the goods sufficient to identify their dangerous or polluting characteristics;

"dangerous goods" means goods classified in the IMDG Code or in any other IMO publication referred to in these Regulations as dangerous for carriage by sea, and any other

substance or article that the shipper has reasonable cause to believe might meet the criteria for such classification;

This expression also includes -

- (i) residues in empty receptacles, empty tanks or cargo holds which have been used previously for the carriage of dangerous goods unless such receptacles, empty tanks or cargo holds have been cleaned and dried, purged, gas freed or ventilated as appropriate or, in the case of radioactive materials, have been both cleaned and adequately closed; and
- (ii) goods labelled, marked or declared as dangerous goods.

The expression shall not include goods forming part of the equipment or stores of the ship in which they are carried;

"dangerous goods declaration" means, subject to regulation 6, a certificate or declaration in writing, signed by the person making it, that the shipment offered for carriage is properly classified, packaged, marked, labelled and placarded, as appropriate, in accordance with the IMDG Code and is in proper condition for carriage by sea;

"forwarder" means the person by whom the dangerous goods declaration or marine pollutants declaration and packing certificate are received, and any person responsible for packing the goods into a cargo transport unit, for eventual delivery to the ship or its agent;

"handling" includes the operations of loading, unloading and transferring of dangerous goods or marine pollutants and cleaning, purging, gasfreeing, ullaging, sounding, sampling and similar operations required for the carriage of such goods in a ship; and cognate expressions shall be construed accordingly;

"harmful substance" has the meaning given by section 128 of the Act;

"IMDG Code" has the meaning given in section 128 of the Act;

"IMO" means the International Maritime Organization;

"IMO Recommendations" means the 1995 edition of Recommendations on the Safe Transport of Dangerous Cargoes and Related Activities in Port Areas, and any amendment thereto or replacement thereof;

"in bulk" means directly and without intermediate form of containment in a hold tank or cargo space, which is a structural part of or permanently attached to a ship;

“marine pollutants declaration” means the certificate or declaration referred to in section 133(3) of the Act;

“package” means an individual package or receptacle described in the IMDG Code an intermediate bulk container;

"packaged goods" means packaged dangerous goods or packaged harmful substances;

“shipper” means a person who, whether as principal or agent for another, consigns for carriage by sea dangerous goods or harmful substances.

3. These Regulations apply to -

Application

- (a) all Trinidad and Tobago ships; and
- (b) all ships operating within the internal waters, territorial sea, or exclusive economic zone of Trinidad and Tobago.

## PART II

4 (1) It shall be the duty of every owner, every employer of persons aboard a ship and every master of a ship to ensure that, so far as is reasonably practicable, when dangerous goods are being handled, stowed or carried on the ship nothing in the manner in which those goods are handled, stowed or carried as the case may be is such as might create a significant risk to the health and safety of any person.

General duties of owners and employers

(2) Without prejudice to the generality of the owner's, employer's or master's duty under subregulation (1) the matters to which the duty of the owner and of the employer extends shall include in particular:

- (a) the provision and maintenance of ship's structure, fittings and equipment for the handling, stowage and carriage of dangerous goods.
- (b) the provision of such information, instruction, training and supervision to all employees in connection with the handling, stowage and carriage of dangerous goods in the ship.

(3) Where an employer, owner or master fails to comply with subregulation (1) or (2) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding *[\$30,000US]*

(4) It shall be a defence to a charge under this regulation in relation to the handling of dangerous goods that such handling was carried out in accordance with appropriate provisions of the IMO Recommendations.

5 (1) It shall be the duty of every employee aboard ship:

General duties of employees aboard ship

- (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or

omissions in connection with the handling, stowage and carriage of dangerous goods in the ship; and

- (b) as regards any duty or requirement imposed on the owner, or the employee's employer by the Model Shipping Act 2000 or any regulation made thereunder with regard to the health and safety of persons aboard a ship to which these Regulations apply, to co-operate with the owner or employer so far as is necessary to enable that duty or requirement to be performed or complied with in connection with the handling, stowage and carriage of dangerous goods in the ship.

(2) Where any employee aboard a ship carrying dangerous goods fails to comply with subregulation (1) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [*\$30,000 US*].

Misconduct endangering a Trinidad and Tobago ship or persons aboard

6 (1) In connection with the handling, stowage and carriage of dangerous goods in a Trinidad and Tobago ship, no person shall intentionally or recklessly interfere with or misuse anything provided on, or disobey instructions displayed on, the ship in the interests of health or safety in pursuance of the Shipping Act 2007 or any regulation made thereunder.

(2) Where any person aboard a ship carrying dangerous goods fails to comply with subregulation (1) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [*\$30,000 US*].

Onus of proving what is reasonably practicable

7. In any proceedings for an offence under regulation 5 or 6 consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

## **PART II**

### **Carriage of packaged goods**

Declaration

8. (1) No packaged goods shall be offered for carriage or taken on board any ship unless a dangerous goods declaration or a marine pollutants declaration, or a combined dangerous goods and marine pollutants declaration, as appropriate, has been provided to the master or owner

(2) The declaration referred to in subregulation (1) shall accurately identify the date the document was prepared and the name, status and company or organisation of the signatory.

(3) Without prejudice to section 231 of the Shipping Act 2007 or to section 133 of the Act, no packaged goods shall be offered for carriage or taken on board any ship unless the master or owner has been provided with a document including the following

- (a) the proper shipping name,

- (b) the class and division where applicable,
- (c) the United Nations numbers where allocated by the IMDG Code;
- (d) where relevant, the packaging or packing group,
- (e) the number and kind of packages,
- (f) the total quantity of dangerous goods or net explosive mass of the content.
- (g) the words MARINE POLLUTANT where appropriate; and
- (g) any other information required by the IMDG Code.

(4) The declaration referred to in subregulation (1) shall be combined with the document referred to in subregulation (3).

(5) It shall be the duty of the shipper to deliver to the owner or master the declaration required by this regulation, unless he does not deliver the goods to the ship or its agent.

(6) In consigning the goods for carriage by sea, the shipper shall make proper provision to ensure the onward delivery of the declaration and document required by this regulation to the ship or its agent.

(7) In the case that the goods are not delivered by the shipper to the ship or its agent, but are provided to another person for onward delivery of the goods or for the consolidation of the goods with other goods or cargoes for eventual delivery, responsibility for providing the document and declaration shall rest upon the forwarder and each person responsible for onward transfer and delivery as it does for the shipper in subregulations (5) and (6) and responsibility for providing the document and declaration shall not extend to those persons who are solely engaged in the loading of the goods onto the ship or moving the goods around the port or terminal

(8) The requirements of subregulation (7) shall be without prejudice to the duties of the shipper contained in regulations 5 and 6.

(9) Where a shipper, a forwarder, or other person referred to in subregulation (7)

- (a) fails to provide the owner or master of the ship with the document and declaration as required by this regulation, or
- (b) provides a declaration or document which he knows to be false or recklessly makes a declaration which is false in a material particular,

he shall be guilty of an offence.

(10) Where an owner or master accepts for carriage, or takes or receives on board any packaged harmful substances for which a document and declaration which is required by this regulation has not been provided he shall be guilty of an offence.

Preparation of goods  
for transport

9. (1) The shipper shall not offer packaged goods for carriage unless:
- (a) all the conditions specified in the IMDG Code have been complied with in relation to their declaration, classification, marking, packaging, labelling, placarding and prior notification to competent authority or consignee as appropriate; and
  - (b) in the case of goods in a portable tank or tank container or vehicle the goods have been properly and safely prepared for carriage by sea by comply with applicable tank requirements in accordance with the IMDG Code.

(2) In preparing any goods for shipment it shall be the duty of the shipper to identify and classify dangerous goods or harmful substances in order to ensure that the proper precautions and preparations can be made for transport as required by these Regulations.

(3) No declaration required by regulation 4 above shall be signed by the shipper unless subregulation (1) and (2) have been complied with.

(4) Any contravention of subregulation (1) to (3) shall be an offence by the shipper.

(5) An owner or master shall not accept for carriage, or take or receive on board any packaged goods where he has reasonable cause to suspect that the goods are not in compliance with subregulation (1) and any contravention of this subregulation by the owner or master shall be an offence.

Container or Vehicle  
Packing Certificates

10. (1) Where packaged goods are to be packed or shipped in or on a cargo transport unit, the person responsible for packing such goods therein shall:

- (a) ensure that the stowage, segregation and securing of the goods is adequate and in accordance with the IMDG Code;
- (b) provide the owner or master or shipper or forwarder, with a signed packing certificate in accordance with the requirements of the IMDG Code, indicating the cargo transport unit, identification number or numbers and identifying the place and date of the operation, the name of the person responsible for the packing and his status, and company or organisation.

(2) This regulation does not apply in relation to goods packaged within a portable tank, road tank vehicle, rail tank wagon or tank container.

(3) (a) Where the person responsible for packing such goods contravenes subregulation (1) he shall be guilty of an offence.

(b) Where the shipper or forwarder fails to provide the owner or master of the ship with the signed packing certificate he shall be guilty of an offence.

(4) An owner or the master shall not accept on any ship any cargo transport unit with such goods in it without a signed packing certificate and where an owner or the master contravenes with this subregulation he shall be guilty of an offence.

11. A dangerous goods declaration, or, pursuant to section 133(6) of the Act, a marine pollutants declaration, and any accompanying documentation required by regulations 4 and 6 and a packing certificate may be provided directly to the master or owner in the form of a paper document or by electronic data processing or electronic data interchange methods.

Documentation by electronic data processing or electronic data interchange

12. (1) The master of any ship carrying packaged goods shall cause a special list, manifest or stowage plan to be carried in the ship:

List, manifest or stowage plan

(a) setting out details, obtained from the shipping documents submitted by the shipper, of the packaged goods on board including the correct technical name of the goods, their classification in accordance with the IMDG Code and their mass or volume; and

(b) showing details of the location in the ship where the goods are stowed.

(2) The information required by subregulation (1) may be contained in a combined list, manifest or stowage plan relating to both packaged dangerous goods and packaged marine pollutants, or in two such lists, manifests or stowage plans, one relating to dangerous goods and the other to marine pollutants. Where a combined document is used it shall show clearly which goods are dangerous goods which are marine pollutants.

(3) The master shall also carry in the ship any additional special documents where required by the IMDG Code for the carriage of packaged dangerous goods.

(4) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of goods for carriage in the ship pursuant to subregulation (3) shall be kept available for reference or inspection on board the ship until the goods have been discharged from the ship.

(5) Where the master of a ship carrying packaged harmful substances fails to cause a list, manifest or stowage plan to be carried in

the ship or kept available as required by subregulation (4), he shall be guilty of an offence

Marking and  
labelling

13. (1) Packaged goods shall not be taken on any ship for carriage in that ship unless they are marked, labelled and placarded, and display a fumigation warning sign, as appropriate and specified in the IMDG Code.

(2) Any breach of subregulation (1) relating to the marking, labelling or placarding of packaged goods shall be an offence on the part of the shipper of those goods.

(3) Where an owner or master accepts dangerous goods or harmful substances on board a ship in any package which has not been marked, labelled or placarded or does not display a fumigation warning sign, as required by subregulation (1), he shall be guilty of an offence.

Stowage on board  
ship

14. (1) Packaged harmful substances shall not be accepted on board where their stowage on board is prohibited by the IMDG Code.

(2) Packaged goods shall not be accepted on board unless any necessary additional safety equipment is provided in accordance with the IMDG Code.

(3) Packaged goods shall be adequately stowed, segregated and secured on board ship in accordance with the IMDG Code.

(4) Where an owner or master accepts on board ship packaged goods in contravention of subregulation (1) or (2) he shall be guilty of an offence.

(5) Where an owner or master fails to comply with the provisions of subregulation (3) he shall be guilty of an offence.

## **PART IV**

### **Operational Requirements**

Operational  
requirements

15. (1) The owner and master shall ensure all employees are familiar with the essential actions to be taken in an emergency involving such packaged goods as are carried on the ship, including spillages and leakages, taking into account the Group Emergency schedules (EmS) in the IMDG Code.

(2) Where an owner or master fails to comply with subregulation (1) he shall be guilty of an offence.

Reporting of  
incidents involving  
dangerous goods

16. Where an incident takes place involving the loss or likely loss overboard of packaged dangerous goods into the sea, section 45 of the Act

(Reports on incidents involving harmful substances) shall apply to the incident as it applies to incidents involving harmful substances.

## **PART V**

### **Carriage in Bulk, and Spaces for Carriage of Dangerous Goods or Harmful Substances**

17 (1) Dangerous goods or harmful substances shall not be handled or carried in bulk in any ship if the owner has any cause to believe that such goods may not be so handled or carried safely in that ship.

Carriage of dangerous goods or harmful substances in bulk

(2) Without prejudice to subregulation (1):

(a) where the dangerous goods or harmful substances in question are goods listed in Chapter VI of the BCH Code, or in Chapter 17 of the IBC Code, or in Chapter 19 of the IGC Code, or are classified dangerous goods listed in Appendix B of the Bulk Cargoes Code, they shall be handled and carried in accordance with the requirements of whichever of the codes is appropriate; or

(b) where the dangerous goods or harmful substances in question consist of a liquid chemical or a liquefied gas which is not listed in the Codes mentioned in sub-subregulation (a), they shall be handled and carried in accordance with an approval given by the Director

(3) Where there is any breach of subregulation (1) or (2) the owner and master shall each be guilty of an offence.

18 (1) The shipper of any dangerous goods or harmful substances to be carried in bulk shall provide the owner or the master with a notification in writing giving notice of the nature of the goods and, in the case of liquid goods with a flashpoint at or below 60 degrees celsius (closed cup), specifying the flashpoint of those goods. Such notification shall specify the correct technical name of the goods, their UN number (if any) and, for dangerous goods carried in solid form in bulk, the classification as listed in the IMDG Code to which those goods belong.

Documentation

(2) Where a shipper of any dangerous goods or harmful substances in bulk -

(a) fails to provide the operator or the master with a notification in writing, or

(b) provides a notification which he knows to be false or recklessly provides a notification which is false in a material particular, he shall be guilty of an offence.

(3) The master of a ship carrying dangerous goods or harmful substances in bulk shall cause a specific list, manifest or stowage plan to be carried in the ship for the voyage on which it is currently engaged:

(a) setting out details, obtained from the shipping documents submitted by the shipper, of the dangerous goods or harmful substances carried aboard the ship for the voyage on which it is currently engaged including the correct technical name of the goods, their mass or volume and, where the dangerous goods are shown in Appendix B of the Bulk Cargoes Code, the Classification in accordance with the IMDG Code; and

(b) showing details of the location in the ship where the goods are stowed.

(4) The master shall also carry in the ship any additional special documents where required by the Bulk Cargoes Code, the BCH or IBC Codes or the IGC Code for the carriage of dangerous goods or harmful substances.

(5) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of such goods for carriage in the ship shall be kept available for reference or inspection on board the ship until the goods have been discharged from the ship.

(6) Where the master of a ship carrying dangerous goods or harmful substances in bulk fails to cause a list, manifest or stowage plan, or any additional special documents referred to in subregulation (4), to be carried in the ship or kept available as required by subregulation (5), he shall be guilty of an offence.

Spaces for carriage of packaged goods and dangerous goods in solid form in bulk

- 19 (1) (a) This regulation applies to -
- (i) passenger ships constructed on or after 1 September 1984;
  - (ii) cargo ships of 500 tons or over, constructed on or after 1 September 1984; and
  - (iii) cargo ships of less than 500 tons constructed on or after 1 February 1992.
- (b) In this subregulation -
- (i) "cargo ship" means a ship other than -
    - (aa) a passenger ship;
    - (bb) a pleasure vessel within the meaning given by section 2(1) of the model Shipping Act 2000; or
    - (cc) a fishing vessel;
  - (ii) "passenger ship" means a ship carrying more than 12 passengers;
  - (iii) the date on which a ship was constructed is the date on which the keel was laid, or on which it was at a similar

state of construction; and "similar stage of construction" means a stage at which:

- (aa) construction identifiable with a specific craft begins; and
- (bb) assembly of that craft has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is the less.

(2) No packaged goods or solid dangerous goods in bulk shall be taken on board or accepted for carriage or carried on any ship unless the spaces in which they are to be carried or are carried, as the case may be, comply with the provisions of regulation 105 of the Shipping (Fire Protection: Large Ships) Regulations 2001 (whether or not the ship is engaged on international voyages), or, as the case may be, regulation 22 of the Shipping (Fire Protection: Small Ships) Regulations 2001.

(3) In the case of ships engaged on international voyages no packaged goods or solid dangerous goods in bulk shall be taken on board, or carried, unless the ship has on board a Document of Compliance issued by or on behalf of the Director or the competent authority of the State in which it is registered.

(4) Any owner or master who accepts for carriage, or carries, packaged goods or dangerous goods in solid form in bulk:

- (a) on a ship in which the spaces in which they are to be or are carried in do not comply as required by subregulation (2); or
- (b) in the case of a ship engaged on international voyages, on a ship which does not have on board a Document of Compliance as required by subregulation (3),

shall be guilty of an offence.

## **PART VI**

### **Offences and Penalties**

20 (1) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding [\$50,000 US].

Offences and Penalties

(2) In any proceedings for an offence under Parts III or IV of these Regulations it shall be a defence for a person to prove that:

- (a) he did not know nor ought to have known nor had reasonable grounds for suspecting the goods to be dangerous goods or harmful substances as the case may be; or
- (b) that the goods were handled and carried in accordance with the provisions of the IMDG Code where appropriate; or

- (c) where the person charged is the owner or master, in the case of goods packed in a freight container or vehicle, that before the freight container or vehicle was taken on board the ship the person responsible for packing the goods into the freight container or vehicle had provided the owner or master of the ship with a signed packing certificate certifying that the goods had been properly packed in the freight container or vehicle; or
- (d) the goods being liquid chemical or gaseous harmful substances in bulk such goods were being handled and carried in accordance with the relevant requirements of the BCH Code, the IBC Code or the IGC Code;
- (e) the goods being solid dangerous goods in bulk were being handled and carried in accordance with the Bulk Cargoes Code; or
- (f) the goods being liquid chemical or gaseous dangerous goods in bulk such goods were being handled and carried in accordance with the relevant requirements of the BCH Code, the IBC Code or the IGC Code.