

MERCHANT SHIPPING ACT, 2013

MERCHANT SHIPPING (CARRIAGE OF CARGOES) REGULATIONS, 2014

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MERCHANT SHIPPING ACT, 2013

MERCHANT SHIPPING (CARRIAGE OF CARGOES) REGULATIONS, 2014

IN EXERCISE of the powers conferred on the Minister under section 336 of the Merchant Shipping Act, 2013, these Regulations are made.

PART I - PRELIMINARY

1. Citation

These Regulations may be cited as the Merchant Shipping (Carriage of Cargoes) Regulations, 2014.

2. Interpretation

(1) In these Regulations except where the context requires otherwise-

“Act” means the Merchant Shipping Act 2013;

"Administration" means the Gambia Maritime Administration;

"appropriate cargo information" includes-

- (a) in the case of general cargo and cargo carried in cargo units, a general description of the cargo, the gross mass of the cargo or any relevant special properties of the cargo,
- (b) in the case of bulk cargo, information on the stowage factor for the cargo, the trimming procedures, likelihood of shifting including angle of repose, if applicable, and other relevant special properties,
- (c) in the case of a concentrate or other cargo which may liquefy, information in the form of a certificate on the moisture content of the cargo and its transportable moisture limit, and
- (d) in the case of a bulk cargo not classified in accordance with the provisions of the IMDG Code but which has chemical properties that may create a

potential hazard;

"bulk cargo" means cargo carried in bulk;

"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;

"Cargo Securing Manual" means a manual drawn up to the standard contained in the Maritime Safety Committee Circular of the Organization, MSC/Circ. 745, dated 13th June 1996, and approved, in the case of Gambian ships by the Administration, or in the case of other ships by or on behalf of the flag state;

"cargo ship" has the meaning assigned to it by the Act.

"cargo hold" or "cargo space" means any hold or space in the ship appropriated for the carriage of cargo;

"cargo unit" includes a cargo transport unit and means wheeled cargo, vehicle, container, flat, pallet, portable tank, packaged unit, or any other cargo, and loading equipment, or any part thereof, which belongs to the ship and which is not fixed to the ship;

"cargoes which may liquefy" means cargoes which are subject to moisture migration and subsequent liquefaction if shipped with a moisture content in excess of the transportable moisture limit;

"container" means an article of transport equipment-

- (a) of a permanent character and accordingly strong enough to be suitable for repeated use,
- (b) specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading,
- (c) designed to be secured and/or readily handled, having corner fittings for these purposes, and
- (d) of a size such that the area enclosed by the four outer bottom corners is either-
 - (i) at least 14 m² (150 sq ft), or
 - (ii) at least 7 m² (75 sq ft) if it is fitted with top

corner fittings;

"flag State" in relation to a ship means the state in which the ship is registered or if unregistered, whose flag it is entitled to fly;

"flow moisture point" means the percentage moisture content (wet weight basis) at which a flow state develops under the methods of test in a representative sample of the material as prescribed by the International Maritime Solid Bulk Cargoes (IMSBC) Code adopted by the Maritime Safety Committee of the Organization;

"flow state" means the condition when a mass of granular material is saturated with liquid to an extent that under prevailing external forces such as vibration, impaction or ship's motion, it loses its internal shear strength and behaves as a liquid;

"forwarder" means a person who receives the appropriate cargo information in preparation for eventual delivery of the cargo to the ship or its agent, and may include a cargo packer or consolidator;

"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;

"in bulk", except in the context of roll-on roll-off cargo spaces, means directly and without intermediate form of containment in a hold, tank or cargo space forming a structural part of, or permanently attached to, a ship;

"International Grain Code" means the International Code for the Safe Carriage of Grain in Bulk adopted by the Maritime Safety Committee of the Organization;

"moisture content" means the amount of moisture present in a particular sample expressed as a percentage by weight of the total wet weight of the sample;

"Organization", "owner" and "pleasure craft" have the meanings given by section 3 of the Act;

"operator of the terminal" means the person under whose control the activities at the terminal are vested;

"passenger ship" means a ship carrying more than twelve passengers;

"roll-on roll-off cargo spaces" means spaces not normally subdivided in any way and extending to either a substantial length or the entire length of the ship in which the goods (packaged or in bulk, in or on rail or road cars, vehicles (including road or rail tankers), trailers, containers, pallets, demountable tanks or in or on similar stowage units or other receptacles can be loaded and unloaded normally in a horizontal direction;

"shipper" means a person who whether as principal or agent for another, consigns goods for carriage by sea;

"Safety Convention" has the meaning given by section 253 of the Act;

"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;

"transportable moisture limit" means 9/10ths of the flow moisture point;

"trimming" means any levelling of the material within a cargo space, either partial or total, by means of loading spouts or chutes, portable machinery, equipment or manual labour.

(2) In interpreting the International Grain Code-

- (a) the requirements having been made mandatory under regulation 11 the language thereof shall be construed accordingly; and
- (b) the definitions set out in section A2 of that Code shall apply;

(3) Any reference in these Regulations to any Code or Recommendation is a reference to that Code or Recommendation as may be amended or replaced.

3. Application

(1) These Regulations apply to-

- (i) sea-going Gambian ships wherever they may be; and
- (ii) sea-going ships which are not Gambian ships while they are within Gambian waters,

when loaded or intended to be loaded with any cargo.

(2) These Regulations apply to the carriage of all cargoes, but are subject to any requirements contained in any Regulations on Dangerous Goods) and any other Act or Regulations in respect of the carriage of dangerous goods or marine pollutants, as the case may be, as defined in such Acts or Regulations.

(3) Where any requirement in the Act or Regulations regulates an aspect of carriage provided for in these Regulations, the Act or Regulations shall apply to the extent that they are inconsistent with the provisions of these Regulations.

PART II - GENERAL PROVISIONS

4. Cargo information

(1) Subject to sub-regulation (4), the shipper shall provide sufficient information to the owner or master in advance of loading as is necessary to enable him or her to ensure that-

- (a) the different commodities to be carried are compatible with each other or suitably separated;
- (b) the cargo is suitable for the ship;
- (c) the ship is suitable for the cargo; and
- (d) the cargo can be safely stowed and secured on board the ship and transported under all expected conditions during the intended voyage.

(2) The cargo information referred to in sub-regulation (1) shall include-

- (a) in the case of general cargo and cargo carried in cargo units, a general description of the cargo, the gross mass of the cargo or cargo units and any relevant special properties of the cargo;
- (b) in the case of bulk cargoes, information on the stowage factor of the cargo, the trimming procedures, the likelihood of shifting including angle of repose, if applicable, and any other relevant special properties;
- (c) in the case of a concentrate or other cargo which may liquefy, additional information in the form of a certificate

indicating the moisture content of the cargo and its transportable moisture limit; and

- (d) in the case of bulk cargoes which have not been classified but have chemical properties that may create a potential hazard, information on its chemical properties in addition to that required by paragraph (b) above.

(2) The information shall be confirmed in writing and by appropriate shipping documents prior to loading the cargo on the ship.

(3) In preparing cargo units for carriage by ships, the shipper or the forwarder shall ensure that the gross mass of such units is in accordance with the gross mass declared on the shipping documents.

(4) Where the shipper does not deliver the cargo to the ship or its agent, he or she shall provide the forwarder with such cargo information.

(5) Where the shipper does not deliver the cargo to the ship or its agent, the forwarder shall provide the owner or master with the appropriate cargo information.

(6) Where a shipper or forwarder fails to provide appropriate cargo information as required by this regulation, or furnishes cargo information which he or she knows to be false or recklessly furnishes cargo information which is false, he or she commits an offence.

(7) Where an owner or master accepts for carriage, or takes or receives on board any cargo for which appropriate cargo information as required by this regulation has not been furnished, he shall be guilty of an offence.

5. Carriage of documentation

(1) The owner and master of every ship to which these Regulations apply other than a ship engaged in the carriage of grain, shall ensure that appropriate documentation relevant to the cargo and its stowage and securing, which should specify in particular the precautions necessary for the safe carriage of that cargo by sea, is carried on board.

(2) Such documentation may consist of one or more of the following Codes of Safe Practice-

- (a) the Code of Safe Practice for Cargo Stowage and Securing adopted by the Organization;

- (b) the Code of Safe Practice for Ships Carrying Timber Deck Cargoes adopted by the Organization; and
- (c) the International Maritime Solid Bulk Cargoes Code 2009 Edition adopted by the Organization.

(3) The owner and master of every ship carrying grain to which these Regulations apply shall ensure that a copy of the International Grain Code is carried on board.

(4) All passenger ships and cargo ships carrying cargoes other than solid bulk cargoes, except cargo ships of less than 500 tons engaged on voyages which are not international voyages, shall carry on board a copy of the Cargo Securing Manual.

(5) An owner or master who contravenes sub-regulation (1) or (3) commits an offence.

6. Stowage and securing

(1) The owner and master shall ensure that-

- (a) cargo and cargo units carried on or under deck are loaded, stowed and secured so as to prevent as far as is practicable, throughout the voyage, damage or hazard to the ship and the persons on board, and loss of cargo overboard;
- (b) appropriate precautions are taken during loading and transport of heavy cargoes or cargoes with abnormal physical dimensions to ensure that no structural damage to the ship occurs and to maintain adequate stability throughout the voyage;
- (c) appropriate precautions are taken during loading and transport of cargo units on board ro-ro ships, especially with regard to the securing arrangements on board such ships and on the cargo units and with regard to the strength of the securing points and lashings;
- (d) cargo on board all ships to which regulation 5(4) is applicable, is stowed and secured throughout any voyage in accordance with the Cargo Securing Manual; and

- (e) cargo on board all ships to which regulation 5(4) is applicable, with roll-on/roll-off cargo spaces, shall be stowed and secured in accordance with the Cargo Securing Manual before the ship leaves a berth.
- (2) Where packaged goods have been packed into or onto a cargo unit, the shipper or forwarder of such goods shall ensure that-
 - (a) the cargo is packed and secured so as to prevent, throughout any voyage, damage or hazard to the ship and the persons on board; and
 - (b) where the cargo unit is a container, it is not loaded to more than the maximum gross weight indicated on the Safety Approval Plate attached to the container in accordance with the International Convention for Safe Containers (CSC 1972), published by the Organization.
- (3) An owner or master who contravenes sub-regulation (1) commits an offence.
- (4) A shipper or forwarder who contravenes sub-regulation (2) commits an offence.

7. Oxygen analysis and gas detection equipment

- (1) In the case of a ship transporting or accepting for transport a bulk cargo which is liable to emit a toxic or flammable gas, or cause oxygen depletion in the cargo hold, an appropriate instrument for measuring the concentration of gas or oxygen in the air shall be provided together with detailed instructions for its use.
- (2) Such an instrument shall be of a type approved by a certifying authority, and the crew shall be trained in its use.
- (2) An owner of a ship which transports, or a master who accepts for carriage such a bulk cargo without ensuring that sub-regulation (1) has been complied with commits an offence.

8. The use of pesticides in ships

- (1) Where pesticides are used in cargo spaces, they shall be used in accordance with the Organisation's Recommendation on the Safe Use of Pesticides in Ships.

(2) Where sub-regulation (1) is not complied with, the owner and master each commit an offence.

PART III - SPECIAL PROVISIONS FOR BULK CARGOES OTHER THAN GRAIN

9. Acceptability for loading

(1) Prior to loading a bulk cargo, the master shall be in possession of stability information provided under the requirements of the Merchant Shipping (Load Line) Regulations 2014 containing comprehensive information on the ship's stability and on the distribution of cargo and ballast for the standard loading conditions.

(2) The master shall not accept for loading concentrates or other cargoes which may liquefy unless-

- (a) either the moisture content of the cargo indicated in the certificate referred to in regulation 4(1)(b) is less than its transportable moisture limit; or
- (b) where the moisture content is above that limit, appropriate safety arrangements are made to the satisfaction of the Administration to ensure adequate stability in the case of cargo shifting, and the ship has adequate structural integrity.

(3) Prior to loading a bulk cargo referred to in regulation 4(1)(b)(iii), appropriate special precautions for its safe carriage shall be taken.

(4) The owner shall ensure that the master is furnished with the information referred to in sub-regulation (1).

(5) The master shall not accept cargo for loading unless-

- (a) he or she has in his or her possession, the information required by sub-regulation (1);
- (b) he or she is satisfied by calculations that the proposed loading arrangements would ensure sufficient stability in accordance with the stability information provided under sub-regulation (1); and
- (c) he or she is satisfied that, in the case of a cargo to which sub-regulation (3) applies, the precautions required by that sub-regulation have been taken.

(6) An owner who contravenes sub-regulation (4) commits an offence.

(7) A master who contravenes sub-regulation (2) or (5) commits an offence.

10. Loading, unloading and stowage of bulk cargoes

(1) In this regulation, "terminal representative" means a person appointed by the terminal or other facility where the ship is loading or unloading and who has responsibility for operations conducted by that terminal or facility with regard to the particular ship.

(2) For the purposes of sub-regulations (3) and (9) of this regulation, the appropriate authority of a port in the Gambia shall be the harbour authority of that port and where a terminal in the port is not operated by the harbour authority, then the operator of the terminal shall be the appropriate authority.

(3) To enable the master to prevent excessive stresses in the ship's structure, it shall be the duty of the owner to ensure the ship shall be provided with a cargo loading manual, which shall be written in English with the following information-

- (a) stability data, to the extent required by Provisions of the Merchant Shipping (Load Line) Regulations 2014;
- (b) ballasting and deballasting rates and capacities;
- (c) maximum allowable load per unit surface area of the tank top plating;
- (d) maximum allowable load per hold;
- (e) general loading and unloading instructions with regard to the strength of the ship's structure including any limitations on the most adverse operating conditions during loading, unloading, ballasting operations and the voyage;
- (f) any special restrictions such as limitations on the most adverse operating conditions imposed by the Administration or organization recognised by it, if applicable; and
- (g) where strength calculations are required, maximum permissible forces and moments on the ship's hull

during loading, unloading and the voyage.

(4) Before a solid bulk cargo is loaded or unloaded, the master and the terminal representative shall agree on a plan which-

- (a) shall ensure that the permissible forces and moments on the ship are not exceeded during loading or unloading; and
- (b) shall include the sequence, quantity and rate of loading or unloading,

taking into consideration the intended speed of loading or unloading, intended number of pours and the deballasting or ballasting capability of the ship.

(5) The plan and any subsequent amendments thereto shall be lodged with the Administration.

(6) The master shall ensure that bulk cargoes are loaded and trimmed reasonably level, as necessary, to the boundaries of the cargo space so as to minimize the risk of shifting and to ensure that adequate stability will be maintained throughout the voyage.

(7) The master shall ensure that-

- (a) when bulk cargoes are carried in 'tween-decks, the hatchways of such 'tween-decks are closed in those cases where the loading information indicates an unacceptable level of stress of the bottom structure if the hatchways are left open;
- (b) the cargo is trimmed reasonably level and either extends from side to side or is secured by additional longitudinal divisions of sufficient strength; and
- (c) the safe load-carrying capacity of the 'tween-decks is observed to ensure that the deck-structure is not overloaded.

(8) The master and terminal representative shall ensure that loading and unloading operations are conducted in accordance with the plan agreed under sub-regulation (3).

(9) Where during loading or unloading any of the limits of the ship referred to in sub-regulation (2) are exceeded or are likely to become

so if the loading or unloading continues, the master may suspend operation, and if he or she does so, he or she shall notify the competent authority or the Port State with which the plan has been lodged.

(10) Where sub-regulation (9) applies, the master and the terminal representative shall ensure that corrective action is taken.

(11) When unloading cargo, the master and terminal representative shall ensure that the unloading method does not damage the ship's structure.

(12) The master shall ensure that ship's personnel continuously monitor cargo operations.

(13) Where possible, the ship's draught shall be checked regularly during loading or unloading to confirm the tonnage figures supplied.

(14) Each draught and tonnage observation shall be recorded in a cargo log-book.

(15) Where significant deviations from the plan agreed under Sub-regulation (3) are detected, cargo or ballast operations or both shall be adjusted to ensure that the deviations are corrected.

(16) An owner who contravenes sub-regulation (2) commits an offence.

(17) A master who contravenes this regulation commits an offence.

(18) A terminal representative in the Gambia who contravenes this regulation commits an offence.

PART IV - REQUIREMENTS FOR CARGO SHIPS CARRYING GRAIN

11. International Grain Code

(1) A ship carrying grain shall comply with the requirements of the International Grain Code.

(2) Without prejudice to sub-regulation (1) or any other requirement of these Regulations, the owner and master shall ensure that-

- (a) a ship loading grain complies with the International Grain Code; and

- (b) subject to sub-regulation (4)(b), the ship has on board a document of authorisation as required by the International Grain Code, and in the case of a Gambian ship the document of authorisation shall be issued by the Administration.

(3) Except where a ship is in distress, the owner and master shall not permit a ship loaded with grain in bulk outside The Gambia to enter any port in The Gambia so laden, unless the ship has been loaded in accordance with the International Grain Code.

(4) A person shall not order the commencement of the loading of grain into a ship in The Gambia unless he or she is satisfied that-

- (a) the ship has on board a document of authorisation referred to in sub-regulation (2)(b); or
- (b) the master has demonstrated to the satisfaction of the Administration that the ship will, in its proposed loading condition, comply with the appropriate requirements of the International Grain Code and has obtained a document to this effect signed by a surveyor of the Administration.

(5) An owner or master who contravenes sub-regulation (2) or (3) commits an offence.

(6) A person who contravenes sub-regulation (4) commits an offence.

PART V - ENFORCEMENT

12. Equivalents

Where these Regulations, or documentation referred to in these Regulations, require that a particular piece of equipment, or type thereof, shall be provided or carried in a ship, or that any particular provision shall be made, the Administration may permit any other piece of equipment to be provided or carried, or any other provision to be made in that ship if it is satisfied by trial thereof or otherwise that such other piece of equipment or provision is at least as effective as that required by these Regulations, or information referred to in these Regulations.

13. Offences and defences

(1) A person who commits an offence under Part II, III or IV of these Regulations is liable on conviction to a fine not exceeding five Million

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(2) In any proceedings for an offence under Part II, III or IV of these Regulations, it shall be a defence for a person to prove that all reasonable steps had been taken by that person to ensure compliance with the Regulations.

14. Power to detain

Where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and section 500 of the Act which relates to enforcing detention of a ship shall have effect in relation to the ship subject to the modification that the words “the Act” whenever they appear shall be substituted with the words” the Merchant Shipping (Carriage of Cargoes) Regulations 2014.

DATED THIS DAY OF 2014

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BALLA GARBA JAHUMPA
MINISTER OF WORKS, CONSTRUCTION AND INFRASTRUCTURE