



IMO
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MERCHANT SHIPPING (PREVENTION OF POLLUTION FROM SHIPS) (AMENDMENT) REGULATIONS, 2012

**A Legislation Drafting Project submitted in partial fulfillment of the
requirements for the award of the Degree of Master of Laws (LL.M.) in
International Maritime Law at the IMO International Maritime Law
Institute**

Submitted By: CHARLOTTE SPITERI (MALTA)

Supervisor: MR. REUBEN Y. MACEDA

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TABLE OF CONTENTS

ACKNOWLEDGEMENTS	ii
EXPLANATORY NOTE	1
1. Introduction.....	1
2. Resolution MEPC. 203 (62).....	3
3. European Union Legislation on Air Pollution from Ships.....	6
4. Malta	8
5. The proposed legislation	10
6. Conclusion	12
Merchant Shipping (Prevention of Pollution from Ships) (Amendment) Regulations, 2012	13
ANNEX 1 - SUBSIDIARY LEGISLATION 234.32	16
ANNEX 2 - Consolidated version of: SUBSIDIARY LEGISLATION 234.32.....	23
ANNEX 3 - RESOLUTION MEPC.203(62).....	31

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EXPLANATORY NOTE

1. Introduction

Over recent decades, it has become public knowledge that ships are not only polluting the seas and oceans, but also the air. Although shipping is by far the cleanest and most economical method of transportation, the negative contributions from exhaust fumes cannot be undermined. Heated political debates regarding emissions from vessels, that were further fuelled by Non-Governmental Organisations' standpoints, led to the drafting of Annex VI of the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto ("MARPOL 73/78"). Annex VI entered into force in May 2005. This Annex has sought to provide a remedy to those disastrous effects that contribute towards air pollution, by seeking to minimize airborne emission from ships including Sulphur Oxide (SO_x), Nitrogen Oxide (NO_x), Ozone Depleting Substances (ODS) and Volatile Organic Compounds (VOC).¹

Pursuant to the implementation of Annex VI, the maritime community soon opined that greater objectives were yet to be reached, so as to save the atmosphere's deteriorating condition, reduce global warming and control climate change. Indeed a revised Annex VI, which significantly tightened emission limits, entered into force on 1 July 2010.²

However, it must be noted that studies relating to the effect of greenhouse gases (GHG) in the atmosphere, were being carried out since the late 1990's. In fact the first study by the International Maritime Organisation (IMO), on emission of GHG from international shipping, was commissioned following a request made at the International Conference of Parties to the MARPOL 73/78 Convention that was held at the IMO Headquarters in September 1997.³ This conference had been convened by IMO to consider air pollution issues related to international shipping and more specifically to adopt Annex VI, which

¹ <<http://www.imo.org/OurWork/Environment/PollutionPrevention/AirPollution/Pages/Default.aspx>> accessed on 12 November 2011.

² Adopted by resolution MEPC.176(58).

³ The first IMO study of greenhouse gas emissions from ships used figures for 1996 and was published in the year 2000 as document MEPC 45/8.

was primarily concerned with the issues at hand.⁴ Furthermore, Resolution 8 on ‘Carbon Dioxide (CO₂) emissions from ships’ was also adopted at this Conference.

By 2007, it was estimated that international shipping contributed about 2.7% to the global man-made emissions of carbon dioxide (CO₂).⁵ Bearing this in mind, IMO sought to adopt technical and operational energy efficiency measures that would considerably reduce the amount of CO₂ emissions from international shipping.⁶ A mandatory limit on the Energy Efficiency Design Index (EEDI) for new ships seemed like the most conceivable and cost-effective solution. However, there was concern that its effectiveness would be limited as it would only be applicable to new ships. Nevertheless, following its 59th session, the MEPC circulated ‘Interim Guidelines on the Method of Calculation of the Energy Efficiency Design Index for New Ships’,⁷ which were accompanied by the ‘Guidance for the Development of a Ship Energy Efficiency Management Plan (SEEMP)’.⁸

The above culminated in the MEPC drafting mandatory measures to reduce emissions of greenhouse gases from international shipping, which were adopted at the 62nd session of the MEPC, by the Parties to MARPOL 73/78 Annex VI. Resolution MEPC.203(62)⁹ was adopted on 15 July 2011, and it aims to improve atmospheric conditions by imposing limits on CO₂ emissions¹⁰ from certain ships. Moreover, it represents the first ever, mandatory global GHG reduction regime for an international industry sector.¹¹

⁴ Marine Environment Protection Committee (MEPC), 59th session, Agenda item 4, Prevention of Air Pollution from Ships, 9 April 2009.

⁵ For further information see the *Second IMO GHG Study 2009* which is the most comprehensive and authoritative assessment of the level of GHG emitted by ships. Studies held that if these measures were implemented, they could possibly increase efficiency and reduce the emissions rate by 25% to 75% below the current level.

⁶ Ibid.

⁷ MEPC.1/Circ.681, 17 August 2009.

⁸ MEPC.1/Circ.682, 17 August 2009.

⁹ Amendments to the Annex of Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, (Inclusion of Regulations on Energy Efficiency for Ships in MARPOL 73/78 Annex VI).

¹⁰ The emissions of CO₂ from shipping lead to positive “radiative forcing” (a metric of climate change) and to long lasting global warming. Ibid., *Second IMO GHG Study 2009*.

¹¹ <<http://www.imo.org/MediaCentre/PressBriefings/Pages/42-mepc-ghg.aspx>> accessed on 12th November 2011.

2. Resolution MEPC. 203 (62)

Resolution MEPC.203(62) amends MARPOL 73/78 Annex VI by adding a new Chapter 4, which concerns ‘Regulations on energy efficiency for ships’ to make mandatory the EEDI, for new ships, and the SEEMP for all ships.¹² This implies that measures are to be implemented for both existing ships and new ships. The inclusion of this new chapter intends to improve energy efficiency for ships through a set of technical performance standards, which would result in reduction of emissions of any substances that originate from fuel oil¹³ and its combustion process.¹⁴

The new Regulations on energy efficiency for ships are applicable to all ships of 400 gross tonnage and above.¹⁵ However, they do not apply to ships solely engaged in voyages within waters subject to the sovereignty or jurisdiction of the State, which flag the ships are entitled to fly,¹⁶ as well as ships that have diesel-electric propulsion, turbine propulsion or hybrid propulsion systems.¹⁷ The regulations also grant the possibility of waiving the requirement for a ship of 400 gross tonnage and above from complying with the EEDI requirement. However, this possibility is not afforded to vessels that are yet to be built, or so majorly converted, within four years from the entry into force of such regulations.¹⁸

It must be appreciated that the EEDI formula has been specifically generated for the largest and most energy-intensive segments of the world merchant fleet, comprising bulk carriers, gas carriers, tankers, container ships, general cargo ships, refrigerated cargo carriers and combination carriers.¹⁹ Indeed, this formula embraces 72% of emissions from new ships.²⁰

¹² <<http://www.imo.org/MediaCentre/PressBriefings/Pages/42-mepc-ghg.aspx>> accessed on 12th November 2011.

¹³ In Resolution MEPC.176 (58), regulation 2, paragraph. 9, “fuel oil” is defined as any fuel delivered to and intended for combustion purposes for propulsion or operation on board a ship, including distillate and residual fuels.

¹⁴ Resolution MEPC.203 (62).

¹⁵ Ibid., Regulation 19(1).

¹⁶ In accordance with Regulation 19(2)(1), each Party should ensure by the adoption of appropriate measures, that such ships are constructed and act in a manner consistent with chapter 4, so far as is reasonable and practicable.

¹⁷ Ibid., Regulation 19(3).

¹⁸ Regulation 19(5).

¹⁹ Regulation 21, Table 1.

²⁰ Other ships that are not covered by the current formula will be addressed in due course since the MEPC aims to adopt further iterations of the EEDI formula; <<http://www.imo.org/MediaCentre/HotTopics/GHG/Pages/default.aspx>> accessed on 12th November 2011.

The EEDI provides a carefully construed mechanism that may be used to increase the energy efficiency of ships. The EEDI formula calculates the rate of CO₂ emissions according to the amount of goods being transported internationally. Hence, the formula for EEDI can be simplified as follows:²¹

$$\text{EEDI} = \frac{\text{CO}_2 \text{ emission}}{\text{Transport work}}$$

The CO₂ emissions taken into consideration for the purposes of this formula include emissions from combustion of fuel,²² propulsion, auxiliary engines and boilers. If other energy-efficient technologies being either mechanical or electrical are incorporated on board a ship, their effects are subtracted from the total CO₂ emissions. Furthermore, according to the efficiency of the systems, any energy saved through the use of wind or solar energy is also deducted from the total of CO₂ emissions. With regards to the “transport work”, this is calculated by multiplying the ship’s designed capacity being its dead weight tonnage, with the ship’s design speed measured at the maximum design load condition. This is calculated at 75% of the rated installed shaft power.²³

These mandatory measures affect all those involved in the international shipping industry including shipowners, ship operators, shipbuilders, ship designers, marine diesel engine and equipment manufacturers as well as any other interested groups. However, it must be noted that stakeholders are free to adopt any technology they desire in order to achieve the targeted energy-efficiency level, so long as the most cost-efficient solution is utilised.

In determining the stipulated energy-efficiency levels that are to be reached, the industry is guided by the attained and the required EEDI. The attained EEDI shall be specific to each ship, and indicates the estimated performance of the ship in terms of energy efficiency. The required EEDI is the maximum value of attained EEDI for that specific ship type and size. The above developments have been accompanied with a phased-in implementation,

²¹ For further information regarding this formula and information related thereto, refer to <<http://www.imo.org/MediaCentre/HotTopics/GHG/Pages/default.aspx>>.

²² This takes into account the carbon content of the fuel in question.

²³ See <<http://www.imo.org/MediaCentre/HotTopics/GHG/Pages/default.aspx>>.

which is divided into four phases starting from 1 January 2013 until 1 January 2025 and onwards. This phase mechanism, works out the reduction factors for the EEDI relative to the EEDI Reference line.²⁴

Resolution MEPC.203(62) also introduces the SEEMP, which is to be kept on board a ship.²⁵ Each SEEMP would be particular to that specific type of ship. The SEEMP may also form part of the ship's Safety Management System.²⁶ In addition to the above, the Resolution provides that Administrations shall promote technical co-operation and transfer of technology relating to the improvement of energy efficiency of ships, predominantly to developing States in need of such technical assistance.²⁷ The Resolution also adds a new Appendix VIII, which provides the format of the International Energy Efficiency Certificate (IEEC).

The MEPC determined that these amendments shall be deemed to have been accepted on 1 July 2012 and shall enter into force on 1 January 2013 unless, prior to that date, not less than one-third of the Parties or Parties the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant fleet, have notified the IMO of their objections to the amendments.

Therefore, assuming that Resolution MEPC.203(62) enters into force in 2013, statistical calculations have concluded that the introduction of the EEDI for all new ships will imply that between 45 and 50 million tonnes of CO₂ will be removed from the atmosphere annually by 2020, when compared with the usual conduct of business in the international shipping industry and depending on the growth in world trade. For 2030, the reduction will be between 180 and 240 million tonnes annually from the introduction of the EEDI.²⁸

²⁴ For a further understanding of the 'Reference line', see Regulation 21, Table 1.

²⁵ Regulation 22.

²⁶ The International Safety Management Code, which was adopted by Resolution A. 741 (18), defines the *Safety management system* under Part A 1.1.4 as "a structured and documented system enabling Company personnel to implement effectively the Company safety and environmental protection policy".

²⁷ Regulation 23.

²⁸ See <<http://www.imo.org/MediaCentre/HotTopics/GHG/Pages/default.aspx>>.

3. European Union Legislation on Air Pollution from Ships

Upon the adoption of Resolution MEPC.203(62), the then IMO Secretary-General Efthimios Mitropoulos opined that, ‘There is now no reason for the European Commission to go ahead with any unilateral measures’.²⁹ This comment was sparked off by the fact that the Commission was contemplating a potential mandatory speed reduction for all ships entering European Union (EU) ports in an attempt to reduce GHG emissions, if IMO did not consider a better solution in due time.

In recent years, the EU had been publicly insisting that IMO take action on the matter. Following the successful conclusion of the international Climate Change negotiations held in Copenhagen, the Commission had stressed that IMO had the responsibility of reducing emissions. It claimed that, ‘several market-based measures are currently being examined. If no effective global rules to reduce GHG emissions from this sector can be agreed upon, the EU should agree its own measures.’³⁰ In December 2008, the EU had adopted the EU Climate Change Package, which had been designed to achieve the EU’s overall environmental target of a 20% reduction in greenhouse gases. Moreover, at a later Commission meeting, it reiterated that it ‘will take steps to move forward if no such agreement has been agreed [to] by 31 December 2011.’³¹

The EU’s harsh criticism of the IMO, stems from the targets that it had set in Council Directive 2009/29/EC³², which amends Council Directive 2003/87/EC³³, which lays down in the preamble that ‘[b]y 2050, global greenhouse gas emissions should be reduced by at least 50% below their 1990 levels.’ Moreover, it expounds that ‘[a]ll sectors of the economy should contribute to achieving these emission reductions, including international maritime shipping.’

²⁹ Steve Matthews, ‘IMO agrees mandatory measures to cut greenhouse gas emissions’, Lloyd’s List Intelligence, 18 July 2011; <<http://www.lloydslist.com/ll/sector/regulation/article375367.ece>> accessed on 7 September 2011.

³⁰ COM(2009) 39 final, Brussels, 28.1.2009, p. 7.

³¹ COM(2010) 265 final, Brussels 26.5.2010, p. 8.

³² Official Journal (EC) L 140, 5.6.2009, p. 63.

³³ Official Journal (EC) L 275, 25.10.2003, p. 32.

An EU strategy to reduce and regulate atmospheric emissions from ships, which lead to air pollution and climate change has been operative as from November 2002. However to date, only Council Directive 2005/33/EC³⁴ which amends Council Directive 1999/32/EC³⁵ has come into force. These Council Directives primarily regulate sulphur content of marine fuel, and thus are only concerned with air pollution, and not climate change resultant from CO₂ emissions.

However, it must be noted that when Resolution MEPC.203 (62) was adopted on 15 of July 2011, the Commission congratulated IMO for its efforts as well as its Member States for voting in favour of ‘this first and major achievement on a technical measure to limit CO₂ emissions from international maritime transport – the adoption of the Energy Efficiency Design Index.’ It further maintained that this is ‘the first globally binding measure to improve energy efficiency of new ships and limit CO₂ emissions from international maritime transport.’³⁶ Climate Action Commissioner Connie Hedegaard, also commented as follows:

This is a very positive and important first step for a truly global, binding measure to reduce CO₂ emissions. I am glad that it covers new ships and such a large segment of the world merchant fleet. I also hope this momentum will help the on-going debate on further reducing emissions from international maritime transport. Europe remains fully committed to keep addressing this issue at all levels and international fora.³⁷

The European Climate Change Programme (ECCP)³⁸ had indeed already addressed this matter in February 2011, when Working Group (WG) 6 was convened, to assess options for the inclusion of international maritime transport in the EU’s GHG reduction commitment.³⁹ The ECCP III meeting, that took place in November 2011, regarded the reduction of GHG emissions from ships. It sought to put into place a regional action plan as a platform for broader action. It recognised that there was broad agreement to reduce emissions, however, measures were not being implemented. Therefore, it proposed to undertake European action, which would increase the adoption of the most effective

³⁴ Official Journal (EC) L 191, 22.7.2005, p. 59.

³⁵ Official Journal (EC) L 121, 11.5.1999, p. 13.

³⁶ <http://ec.europa.eu/clima/news/articles/news_2011071801_en.htm> accessed on 14 November 2011.

³⁷ Ibid.

³⁸ The EU’s European Commission, with an aim of avoiding dangerous climate change, launched the ECCP in June 2000.

³⁹ <http://ec.europa.eu/clima/policies/eccp/second/stakeholder/index_en.htm> accessed on 9 January 2011.

measures around the globe. While recognising IMO's contribution to reduce GHG emissions, it held that a legislative proposal from the Commission would provide a clear reference to agree on common global measures so as to prevent different regional approaches.⁴⁰

4. Malta

As the current 8th largest shipping register in the world, and an EU Member State, Malta has sought to keep abreast of developments in the international maritime field. More importantly, it has made it a point to observe measures regarding maritime pollution. Malta's adherence to such rules promotes IMO's purpose to prevent marine pollution by ships, as well as its most recent agenda: an atmosphere free from pollutants.

Malta's concern about climate was first manifested on 22 August 1988.⁴¹ Ever since climate has been declared as part of the common concern of mankind, the climate change debate has been of great concern, spurring conferences and conventions to this effect. In fact, Resolution MEPC.203 (62) may be deemed to be the fruit borne out of this concern.

The Merchant Shipping Act,⁴² under article 308A, provides for the prevention of pollution from ships.⁴³ It stipulates that Parliament may delegate its powers to the Minister⁴⁴ so as to make regulations to this effect:

- (1) The Minister may make regulations as appear necessary to give effect to any provision of any of the following which have been ratified or acceded to or accepted by the Government of Malta -
 - (a) the International Convention for the Prevention of Pollution from Ships signed in London on the 2nd November, 1973 and the Protocol thereto signed in London on the 17th February, 1978 (including protocols, annexes and appendices thereto);

⁴⁰ Background paper ECCP III, 'Reducing GHG emissions from ships: Regional action as a platform for broader action', p. 2.

⁴¹ Malta requested at the provisional agenda of the 43rd session of the United Nations General Assembly for the inclusion of an item entitled 'Declaration Proclaiming Climate as part of the Common Concern of Mankind', following the proposal made by Professor David J. Attard.

⁴² Chapter 234 of the Laws of Malta.

⁴³ This Article was introduced by Act XXII of 2000.

⁴⁴ Article 2(1) of the Merchant Shipping Act (Chapter 234 of the Laws of Malta) defines "Minister" as the Minister responsible for shipping and includes any person acting under his authority.

Malta is now in line with the prevention of pollution of air from ships. MARPOL 73/78 Annex VI, as it stood before Resolution MEPC.203(62), entered into force recently under Maltese law. The legal framework for the transposition and implementation of Annex VI to the MARPOL Convention, was ratified under The Merchant Shipping (Prevention of Pollution from Ships) (Amendment) Regulations, 2011.⁴⁵ The notice issued by the Merchant Shipping Directorate to this effect, draws the attention of shipowners, ship operators, managers, masters, owner's representatives and recognised organisations, to these amendments.⁴⁶ This notice also provides for the replacement of the Document of Compliance with the International Certificate in respect of Annex VI, which is to be effected by latest 31 December 2012, unless other occasions have arisen beforehand.⁴⁷

Following the abovementioned amendments, Annex VI now forms part of the regime of the Merchant Shipping (Prevention of Pollution from ships) Regulations,⁴⁸ which already comprised Annex I, II and III of the MARPOL Convention. These Regulations provide that:

Any reference in these regulations [...] to [an] annex shall include reference to any amendment to such [...] annex as from time to time may be *ratified, acceded* to or *accepted* by the Government of Malta, and where the context allows, it shall include also reference to any other instruments, standards and specifications of a mandatory nature related thereto as may from time to time be adopted or developed by the International Maritime Organisations or in terms of regulation 4(2)(a).⁴⁹

Regulation 4(2)(a) abovementioned stipulates that:

The Registrar-General may either on a case by case basis or through the issue of Merchant Shipping Notices –

(a) determine, lay down, prescribe, set or specify what may be required to be determined, laid down, prescribed, set or specified [...] by Annex VI, or expound on the requirements of these [...] Annexes or clarify their applicability or interpretation.

⁴⁵ Legal Notice 183 of 2011 entered into force on 30 June 2011 and amended the Merchant Shipping (Prevention of Pollution from Ships) Regulations.

⁴⁶ Merchant Shipping Notice 91, issued on 23 May 2011.

⁴⁷ These include the change of flag, owner's request, re-issue of certification (consequential to changes in technical requirements, details/entries, etc.) and renewal survey.

⁴⁸ Subsidiary Legislation (S.L.) 234.32 of the Laws of Malta.

⁴⁹ (S.L.) 234.32 ,Article 2(2); emphasis added.

In relation to domestic legislation concerning CO₂ emissions, to date, only Council Directive 2003/87/EC has been transposed into Maltese law, and this law does not cater for CO₂ emissions resultant from the maritime industry.⁵⁰ Furthermore, only various articles of Council Directive 2009/29/EC, that amend the abovementioned Council Directive, have been transposed into Maltese law.⁵¹ Hence domestic law does not yet have a scheme that regulates CO₂ emissions from ships, or rather the reduction thereof.

5. The proposed legislation

As established in the previous sections, the present operative system does not cater for the reduction of atmospheric pollution created by CO₂ emissions from vessels. It is important to note however that Malta was one of the Parties to MARPOL 73/78 Annex VI that voted in favour of the adoption of Resolution MEPC.203(62).

Since Malta has already ratified Annex VI, then it would stand to reason that, the incorporation of the Regulations contained within Resolution MEPC.203(62), would bring Maltese legislation in conformity with the new objectives of MARPOL 73/78 Annex VI. Moreover, incorporating these Regulations into Maltese law, would also complement Malta's obligations under the United Nations Framework Convention on Climate Change (UNFCCC).⁵²

Furthermore, as abovementioned, it is important to note that, Article 2(2) of S.L. 234.32, provides that any reference to MARPOL, its protocols or annexes, refers also to any amendments that 'may be ratified, acceded to or accepted by the Government of Malta'. This implies that there is no automatic effect given to the Regulations of Resolution MEPC.203(62). Therefore, it must first undergo Parliament's approval, before the legal framework may be transposed into Maltese law.

Following the above, it is proposed through this legislation drafting project, to amend the current S.L. 234.32, by incorporating the Regulations contained within Resolution

⁵⁰ See L.N. 140 of 2005.

⁵¹ See L.N. 263 of 2010.

⁵² According to this Convention Malta is obliged to compile an inventory of its greenhouse gas emissions, which would then be submitted in the form of a report.

MEPC.203(62) by means of a Legal Notice, thus providing a comprehensive regime instead of sporadic legislation.

Upon their incorporation into Maltese law, the Registrar-General will enforce these Regulations, as he is the competent authority in Malta to carry out this function.⁵³ More importantly the Registrar-General is also responsible for the inspection of ships and detention of the same, if they do not concur with the requirements stipulated in the Subsidiary Legislation.⁵⁴

As already mentioned in the foregoing subsections, Resolution MEPC.203(62) has introduced the mandatory IEEC. This certificate ensures that vessels of 400 gross tonnage and above have attained the required EEDI, and are thereby emitting a reduced level of CO₂ into the atmosphere. If upon his inspections, the Registrar-General discovers that such Certificate is not on board the ship, following the Regulations of the Resolution coming into force under Maltese law, then “the owner, the company which has assumed the operation of the ship, the master of the ship or any other person”, will be subjected to the penalties imposed under Regulation 12. Moreover, any person is subject to the same penalties if such Certificate is misused. Furthermore, the Registrar-General is also responsible for ensuring that the ship also has an operative SEEMP onboard, once these Regulations come into force.

Once the Regulations come into force, the Registrar-General would then issue a Merchant Shipping Notice, so as to notify the general public of the latest amendments in the law. This would ensure compliance with the new requirements of S.L. 234.32.

For ease of reference, three annexes have been attached to this legal drafting project. The first annex provides the original text of S.L. 234.32. The second annex provides the consolidated version of S.L. 234.32, which contains the law as amended following the changes proposed in this legal drafting project. Resolution MEPC.203(62) has also been attached under annex three, so as to give a coherent picture of the recommended amendments.

⁵³ Regulation 2(4), S.L. 234.32.

⁵⁴ Regulations 7, 8 and 12, S.L. 234.32.

6. Conclusion

The incorporation of this proposed legislation into Maltese law would enable Malta to fulfill its obligations vis-à-vis the EU as well as the IMO. This is due to the fact that by adopting the EEDI and SEEMP, Malta would be closer to achieving the targets imposed by the EU in relation to CO₂ emission levels. Furthermore, since Resolution MEPC.203(62) takes the form of a mandatory global measure, then Malta should abide by its effects and incorporate it as part of Maltese law, as required by IMO. Last but not least, the intended effect of this Resolution is to potentially preserve climate in its present condition, for the benefit of future generations, thereby sustaining human health and existence. Therefore, the adoption of this Resolution by the Maltese Government would imply that Malta has partaken in fulfilling its obligations towards sustaining life on earth.

MERCHANT SHIPPING ACT
(CAP. 234)

Merchant Shipping (Prevention of Pollution from Ships)
(Amendment) Regulations, 2012

Legal Notice ____ of 2012

L.N. ____ of 2012

**MERCHANT SHIPPING ACT
(CAP. 234)**

**Merchant Shipping (Prevention of Pollution from Ships)
(Amendment) Regulations, 2012**

IN exercise of the powers conferred by articles 308A and 374 of the Merchant Shipping Act, the Minister for Infrastructure, Transport and Communications has made the following regulations:-

1. (1) The title of these regulations is the Merchant Shipping (Prevention of Pollution from Ships) (Amendment) Regulations, 2012 and shall be read and construed as one with the Merchant Shipping (Prevention of Pollution from Ships) Regulations, 2003, hereinafter referred to as the “principal regulations”.

Citation and
Commencement.

L.N. 332 of 2003.
L.N. 183 of 2011.

(2) These regulations shall come into force on such date as the Minister responsible for Infrastructure, Transport and Communications, may by notice in the Gazette appoint.

2. Regulation 7 of the principal regulations shall be amended as follows:

Amends regulation 7 of
the principal regulations.

(a) subregulation (1) thereof shall be amended as follows:

(i) immediately after the words “harm to the marine environment,” there shall be added the words “and has attained the required Energy Efficiency Design Index,”; and

(ii) in the second proviso thereto, immediately after the words “International Air Pollution Prevention Certificate”, there shall be added the words “and an International Energy Efficiency Certificate”;

(b) in subregulation (3) thereof, the words “Annex VI,” shall be deleted and replaced by the words “or is not operating in accordance with the set of technical performance standards controlled by Annex VI”.

3. (1) Regulation 9 of the principal regulations shall be amended as follows:

Amends regulation
9 of the principal
regulations.

(a) immediately after subregulation (3), there shall be added the following new subregulation:

(i) “(4) No Maltese ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage unless there is in force in respect of the ship an International Energy Efficiency Certificate”; and

(ii) the present subregulations (4), (5) and (6) shall be renumbered as subregulations (5), (6) and (7) thereof; and

(b) immediately after subregulation (7), as renumbered, there shall be added the following new subregulation (8):

(i) “(8) No ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless there is in force in respect of the ship an International Energy Efficiency Certificate”;

(ii) the present subregulations (7), (8), (9) and (10) shall be renumbered as subregulations (9), (10), (11) and (12);

(c) in subregulation (10), as renumbered, for the numbers and words “to (7)”, there shall be substituted the following:

“to (9)”; and

(d) in subregulation (11), as renumbered, for the numbers and words “(4) to (6)”, there shall be substituted the following:

“(5) to (8)”.

Amends regulation
12 of the principal
regulations.

4. Regulation 12 of the principal regulations shall be amended as follows:

(a) in subregulation (e) thereof, for the numbers “9(8)”, there shall be substituted the following:

“9(10)”; and

(b) in subregulation (f) thereof, for the numbers “9(10)”, there shall be substituted the following:

“9(12)”.

ANNEX 1

SUBSIDIARY LEGISLATION 234.32

MERCHANT SHIPPING (PREVENTION OF POLLUTION FROM SHIPS) REGULATIONS

SUBSIDIARY LEGISLATION 234.32**MERCHANT SHIPPING (PREVENTION OF
POLLUTION FROM SHIPS) REGULATIONS**

1st March, 2004

LEGAL NOTICE 332 of 2003, as amended by Legal Notices 183 of 2011.

1. The title of these regulations is the Merchant Shipping (Prevention of Pollution from Ships) Regulations. Citation.

2. (1) In these regulations, unless the context otherwise requires – Interpretation.
Amended by:
L.N. 183 of 2011.
Cap. 234

"Act" means the Merchant Shipping Act;

"Annex I" means Annex I to the MARPOL Convention including appendices thereto;

"Annex II" means Annex II to the MARPOL Convention including appendices thereto;

"Annex III" means Annex III to the MARPOL Convention including the appendix thereto;

"Annex VI" means Annex VI to the MARPOL Convention including appendices thereto;

"appropriate inspector" shall have the same meaning as is assigned to it in article 154 of the Act;

"Maltese waters" shall have the same meaning as is assigned to it in the Territorial Waters and Contiguous Zone Act; Cap. 226.

"MARPOL Convention" means the International Convention for the Prevention of Pollution from Ships, signed in London on 2nd November, 1973 as modified by the Protocol of 1978 relating thereto signed in London on 17th February, 1978;

"Protocol I" means Protocol I to the MARPOL Convention.

(2) Any reference in these regulations, but in particular in regulation 4(1), to a convention, protocol or annex shall include reference to any amendment to such convention, protocol or annex as from time to time may be ratified, acceded to or accepted by the Government of Malta, and where the context allows, it shall include also reference to any other instruments, standards and specifications of a mandatory nature related thereto as may from time to time be adopted or developed by the International Maritime Organisation or in terms of regulation 4(2)(a).

(3) Unless otherwise defined in these regulations or unless the context otherwise requires, words and expressions used in these regulations shall have the same meaning assigned to them in the MARPOL Convention or in Protocol I, or in Annex I or in Annex II, or in Annex III, or in Annex VI, as the case may be.

(4) The terms "Administration" and "the competent authority of the Government of a Party" as used in Annex I or in Annex II or in

Annex VI shall, with reference to Malta, and where the context so requires, for the purposes of these regulations, mean the Registrar-General.

(5) In Annex I or in Annex II, or in Annex VI, any reference to "nominated surveyor", "persons or organisations duly authorized by the Administration" or "recognized organization" shall, for the purposes of these regulations, with reference to Malta and where the context so requires, be construed as reference to a surveyor of ships or an organisation or body of surveyors appointed in terms of article 367 of the Act, and duly authorized by the Registrar-General.

Application.
Amended by:
L.N. 183 of 2011.

3. These regulations shall apply to all Maltese ships and, notwithstanding the provisions of Article 3(1) of the MARPOL Convention but subject to the provisions of Article 3(3) of the said convention, to all other ships while they are in Maltese waters as determined by Annex I or Annex II or Annex III, or Annex VI, as the case may be.

Protocol I, Annex I,
Annex II, Annex III
and Annex VI given
force of law in
Malta.
Amended by:
L.N. 183 of 2011.

4. (1) Protocol I and Annex I, except for regulations 10(7) and 12, and Annex II, except for regulation 7, and Annex III, as may from time to time be in force, and Annex VI, except for regulation 17, shall, unless otherwise provided in or in terms of these regulations and notwithstanding the provision of any other law, form part of and be enforceable as part of the Law of Malta and shall apply to all Maltese ships and, notwithstanding the provisions of Article 3(1) of the MARPOL Convention but subject to the provisions of Article 3(3) of the said convention, to all other ships while they are in Maltese waters as determined by the said Annexes, and the reference to "all ships" in regulation 2(1) of Annex I and in regulation 1 of Annex VI, "all ships carrying noxious liquid substances in bulk" in regulation 2(1) of Annex II and "all ships carrying harmful substances in packaged form" in regulation 1(1) of Annex III shall be construed accordingly.

(2) The Registrar-General may either on a case by case basis or through the issue of Merchant Shipping Notices –

- (a) determine, lay down, prescribe, set or specify what may be required to be determined, laid down, prescribed, set or specified by these regulations, by the MARPOL Convention, by Protocol I, by Annex I, by Annex II, by Annex III or by Annex VI, or expound on the requirements of these regulations or of such Convention, Protocol, or Annexes or clarify their applicability or interpretation; and
- (b) extend any of the provisions of the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III and Annex VI to other classes of Maltese ships or, to other classes of ships while they are in Maltese waters, and in so doing, and without prejudice to the generality of the foregoing, the Registrar-General shall be guided by the circulars, clarifications, codes, decisions, directives, guidelines, instruments, interpretations, manuals, notices, publications,

recommendations, regulations, resolutions, rules or any other similar medium of the International Maritime Organisation or any other body or organization with an appropriate knowledge or competence on the subject matter.

5. Save as provided for in these regulations, where any provisions of any rules and regulations made under the Act are inconsistent with the provisions of the MARPOL Convention or Protocol I or Annex I or Annex II or Annex III or Annex VI, the provisions of that Convention, Protocol and Annexes shall, unless specifically provided for in such rules or regulations, apply.

Provisions of rules and regulations inconsistent with the MARPOL Convention or Protocol I or Annex I or Annex II or Annex III or Annex VI.
Amended by:
L.N. 183 of 2011.

6. (1) It shall be the duty of the owner, of the company which has assumed the operation of the ship and of the master to ensure that the ship is in compliance with the provisions of these regulations and the applicable requirements of the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III and Annex VI and such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 for each offence.

Duty to ensure compliance.
Substituted by:
L.N. 183 of 2011.

(2) It shall be the duty of any person -

- (a) to whom a direction is given in pursuance of these regulations, the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III or Annex VI, or
- (b) upon whom an obligation is imposed by these regulations, by the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III or Annex VI,

to comply or ensure compliance with the provisions of these regulations and the applicable requirements of the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III and Annex VI and such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 for each offence.

7. (1) The Registrar-General, or an appropriate inspector, may inspect any ship to which these regulations apply and if satisfied that the ship is not in compliance with the provisions of these regulations and the applicable requirements of the MARPOL Convention or Protocol I or Annex I or Annex II or Annex III or Annex VI, the Registrar-General shall take such steps as are considered necessary to ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment, and any expenses incurred therefor shall be a charge on the ship, so however that the ship shall not be unduly detained or delayed:

Inspection, detention and other measures in respect of ships.
Amended by:
L.N. 183 of 2011.

Provided that the Registrar-General may permit the ship to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available:

Provided further that, in the case of a non-Maltese ship, such inspection shall be limited to verifying that there is on board in relation to such ship a valid International Oil Pollution

Prevention Certificate in the form prescribed by Annex I and an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in the form prescribed by Annex II and the documentation prescribed by Annex III and an International Air Pollution Prevention Certificate, in the form prescribed by Annex VI, as the case may be, unless there are clear grounds for believing that the condition of the ship or its equipment or its cargo does not correspond substantially with the particulars of that certificate or documentation.

(2) In the case of a non-Maltese ship, if the Registrar-General takes such steps as specified in subregulation (1), the Registrar-General shall forthwith notify the maritime Administration and the nearest maritime, consular or diplomatic representative of the flag State of the ship.

(3) Upon receiving evidence that a ship to which these regulations apply has discharged oil or an oily mixture or noxious liquid substances or unassessed liquid substances carried in bulk or a mixture containing such substances or has jettisoned any harmful substances or has emitted any substance in violation of the provisions of these regulations and of the MARPOL Convention or Annex I or Annex II or Annex III, the Registrar-General shall investigate the matter and may inspect the ship or cause the ship to be inspected by an appropriate inspector or by any other person duly authorised by the Registrar-General, and shall inform the State which has reported the alleged violation as well as the International Maritime Organization of the action taken:

Provided that, if the investigation establishes a violation of these regulations or of the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI, the owner or the company which has assumed the operation of the ship and the master or any other officer or member of the crew of the ship shall, on conviction, be liable to a fine (multa) as provided for in regulation 12:

Provided further that, in the case of a non-Maltese ship, if the investigation indicates a violation of these regulations or of the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI, the Registrar-General shall provide the flag State of the ship with the report of such investigation and with evidence, if any, of such violation.

(4) For the purposes of this regulation, the provisions of article 154(2) and (3) of the Act shall apply *mutatis mutandis* to the Registrar-General and to appropriate inspectors.

Fraud, misuse of
certificates, etc.
Amended by:
L.N. 183 of 2011

8. If any person –

- (a) intentionally alters a certificate issued or any marking, labeling or documentation carried for the purposes of the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI;
- (b) falsely makes a certificate or any marking, labeling or documentation referred to in the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI;

- (c) in connection with any survey required by the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI knowingly or recklessly furnishes false information;
- (d) with intent to deceive, use, lend, or allow to be used by another, a certificate or any marking, labeling or documentation referred to in the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI;
- (e) fails to surrender a certificate or documentation to be surrendered for the purposes of the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI,

such person shall, on conviction, be liable to a fine (*multa*) as provided for in regulation 12 for each offence.

9. (1) No Maltese oil tanker of 150 gross tonnage and above and any other ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage unless there is in force in respect of the ship an International Oil Pollution Prevention Certificate.

Prohibition of proceeding to sea without appropriate certificate.

*Substituted by:
L.N. 183 of 2011.*

(2) No Maltese ship carrying in bulk noxious liquid substances or unassessed liquid substances shall proceed or attempt to proceed to sea on an international voyage unless there is in force in respect of the ship the relevant certificate referred to in regulations 11 and 12A of Annex II as appropriate.

(3) No Maltese ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage unless there is in force in respect of the ship an International Air Pollution Prevention Certificate.

(4) No oil tanker of 150 gross tonnage and above and any other ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless there is in force in respect of the ship an International Oil Pollution Prevention Certificate.

(5) No ship carrying in bulk noxious liquid substances or unassessed liquid substances shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless there is in force in respect of the ship the relevant certificate referred to in regulations 11 and 12A of Annex II as appropriate.

(6) No ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless there is in force in respect of the ship an International Air Pollution Prevention Certificate.

(7) No Maltese ship wherever it is, or no other ship while it is in Maltese waters, shall carry harmful substances except in accordance with the provisions of Annex III.

(8) If a ship proceeds or attempts to proceed to sea on an international voyage, in contravention of subregulations (1) to (7), the master of the ship shall be liable to a fine (*multa*) as provided

for in regulation 12.

(9) The master of every ship to which the provisions of subregulations (4) to (6) apply, shall produce to the officer from whom a clearance for the ship is demanded, at the time a clearance for the ship is demanded for a voyage from Malta to a port or place outside Maltese waters, the certificates and documentation referred to in the said subregulations to be in force when the ship proceeds to sea on an international voyage, and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

(10) Where an exemption certificate issued for the purposes of the MARPOL Convention or Annex I or Annex II in respect of a ship specifies any conditions on which the certificate is issued and any of those conditions is not complied with, such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12.

Duty to report
pollution and other
incidents.

10. In the event of an incident referred to in Protocol I, in the case of a Maltese ship, the same report required by that Protocol to be made to the coastal State shall also be made to the Registrar-General.

Casualties to ships.

11. If a casualty occurs to –

- (a) a Maltese ship wherever it may be; or
- (b) to any ship and such casualty has occurred on the coasts of Malta, including any port installation or ship repair facility, or at sea within Maltese waters, and such casualty produces a major deleterious effect upon the marine environment,

a shipping casualty shall be deemed to have occurred for the purposes of article 312 of the Act, and the provisions of articles 313 to 317 (both inclusive) of the Act shall apply *mutatis mutandis*.

Penalties.
Amended by:
L.N. 183 of 2011.

12. If the owner, the company which has assumed the operation of the ship, the master of the ship or any other person contravenes the provisions of these regulations, such person shall, on conviction, be liable to a fine (multa) as specified hereunder:

- (a) where there is a contravention of regulation 6(1), a fine (multa) not exceeding five hundred units;
- (b) where there is a contravention of regulation 6(2), a fine (multa) not exceeding five hundred units;
- (c) where there is a contravention of regulation 7(3), a fine (multa) not exceeding ten thousand units;
- (d) where there is a contravention of regulation 8, a fine (multa) not exceeding five hundred units;
- (e) where there is a contravention of regulation 9(8), a fine (multa) not exceeding five hundred units;
- (f) where there is a contravention of regulation 9(10), a fine (multa) not exceeding five hundred units;
- (g) where there is a contravention of regulation 10, a fine (multa) not exceeding five hundred units.

ANNEX 2 - Consolidated version of:

SUBSIDIARY LEGISLATION 234.32

**MERCHANT SHIPPING (PREVENTION OF
POLLUTION FROM SHIPS) REGULATIONS**

SUBSIDIARY LEGISLATION 234.32**MERCHANT SHIPPING (PREVENTION OF
POLLUTION FROM SHIPS) REGULATIONS**

1st March, 2004

LEGAL NOTICE 332 of 2003, as amended by Legal Notices 183 of 2011 and ____ of 2012.

1. The title of these regulations is the Merchant Shipping (Prevention of Pollution from Ships) Regulations. Citation.

2. (1) In these regulations, unless the context otherwise requires – Interpretation.
Amended by:
L.N. 183 of 2011.
Cap. 234

"Act" means the Merchant Shipping Act;

"Annex I" means Annex I to the MARPOL Convention including appendices thereto;

"Annex II" means Annex II to the MARPOL Convention including appendices thereto;

"Annex III" means Annex III to the MARPOL Convention including the appendix thereto;

"Annex VI" means Annex VI to the MARPOL Convention including appendices thereto;

"appropriate inspector" shall have the same meaning as is assigned to it in article 154 of the Act;

"Maltese waters" shall have the same meaning as is assigned to it in the Territorial Waters and Contiguous Zone Act; Cap. 226.

"MARPOL Convention" means the International Convention for the Prevention of Pollution from Ships, signed in London on 2nd November, 1973 as modified by the Protocol of 1978 relating thereto signed in London on 17th February, 1978;

"Protocol I" means Protocol I to the MARPOL Convention.

(2) Any reference in these regulations, but in particular in regulation 4(1), to a convention, protocol or annex shall include reference to any amendment to such convention, protocol or annex as from time to time may be ratified, acceded to or accepted by the Government of Malta, and where the context allows, it shall include also reference to any other instruments, standards and specifications of a mandatory nature related thereto as may from time to time be adopted or developed by the International Maritime Organisation or in terms of regulation 4(2)(a).

(3) Unless otherwise defined in these regulations or unless the context otherwise requires, words and expressions used in these regulations shall have the same meaning assigned to them in the MARPOL Convention or in Protocol I, or in Annex I or in Annex II, or in Annex III, or in Annex VI, as the case may be.

(4) The terms "Administration" and "the competent authority of the Government of a Party" as used in Annex I or in Annex II or in

Annex VI shall, with reference to Malta, and where the context so requires, for the purposes of these regulations, mean the Registrar-General.

(5) In Annex I or in Annex II, or in Annex VI, any reference to "nominated surveyor", "persons or organisations duly authorized by the Administration" or "recognized organization" shall, for the purposes of these regulations, with reference to Malta and where the context so requires, be construed as reference to a surveyor of ships or an organisation or body of surveyors appointed in terms of article 367 of the Act, and duly authorized by the Registrar-General.

Application.
Amended by:
L.N. 183 of 2011.

3. These regulations shall apply to all Maltese ships and, notwithstanding the provisions of Article 3(1) of the MARPOL Convention but subject to the provisions of Article 3(3) of the said convention, to all other ships while they are in Maltese waters as determined by Annex I or Annex II or Annex III, or Annex VI, as the case may be.

Protocol I, Annex I,
Annex II, Annex III
and Annex VI given
force of law in
Malta.
Amended by:
L.N. 183 of 2011.

4. (1) Protocol I and Annex I, except for regulations 10(7) and 12, and Annex II, except for regulation 7, and Annex III, as may from time to time be in force, and Annex VI, except for regulation 17, shall, unless otherwise provided in or in terms of these regulations and notwithstanding the provision of any other law, form part of and be enforceable as part of the Law of Malta and shall apply to all Maltese ships and, notwithstanding the provisions of Article 3(1) of the MARPOL Convention but subject to the provisions of Article 3(3) of the said convention, to all other ships while they are in Maltese waters as determined by the said Annexes, and the reference to "all ships" in regulation 2(1) of Annex I and in regulation 1 of Annex VI, "all ships carrying noxious liquid substances in bulk" in regulation 2(1) of Annex II and "all ships carrying harmful substances in packaged form" in regulation 1(1) of Annex III shall be construed accordingly.

(2) The Registrar-General may either on a case by case basis or through the issue of Merchant Shipping Notices –

- (c) determine, lay down, prescribe, set or specify what may be required to be determined, laid down, prescribed, set or specified by these regulations, by the MARPOL Convention, by Protocol I, by Annex I, by Annex II, by Annex III or by Annex VI, or expound on the requirements of these regulations or of such Convention, Protocol, or Annexes or clarify their applicability or interpretation; and
- (d) extend any of the provisions of the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III and Annex VI to other classes of Maltese ships or, to other classes of ships while they are in Maltese waters, and in so doing, and without prejudice to the generality of the foregoing, the Registrar-General shall be guided by the circulars, clarifications, codes, decisions, directives, guidelines, instruments, interpretations, manuals, notices, publications,

recommendations, regulations, resolutions, rules or any other similar medium of the International Maritime Organisation or any other body or organization with an appropriate knowledge or competence on the subject matter.

5. Save as provided for in these regulations, where any provisions of any rules and regulations made under the Act are inconsistent with the provisions of the MARPOL Convention or Protocol I or Annex I or Annex II or Annex III or Annex VI, the provisions of that Convention, Protocol and Annexes shall, unless specifically provided for in such rules or regulations, apply.

Provisions of rules and regulations inconsistent with the MARPOL Convention or Protocol I or Annex I or Annex II or Annex III or Annex VI.
Amended by:
L.N. 183 of 2011.

6. (1) It shall be the duty of the owner, of the company which has assumed the operation of the ship and of the master to ensure that the ship is in compliance with the provisions of these regulations and the applicable requirements of the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III and Annex VI and such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 for each offence.

Duty to ensure compliance.
Substituted by:
L.N. 183 of 2011.

(2) It shall be the duty of any person -

- (c) to whom a direction is given in pursuance of these regulations, the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III or Annex VI, or
- (d) upon whom an obligation is imposed by these regulations, by the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III or Annex VI,

to comply or ensure compliance with the provisions of these regulations and the applicable requirements of the MARPOL Convention, Protocol I, Annex I, Annex II, Annex III and Annex VI and such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 for each offence.

7. (1) The Registrar-General, or an appropriate inspector, may inspect any ship to which these regulations apply and if satisfied that the ship is not in compliance with the provisions of these regulations and the applicable requirements of the MARPOL Convention or Protocol I or Annex I or Annex II or Annex III or Annex VI, the Registrar-General shall take such steps as are considered necessary to ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment, and has attained the required Energy Efficiency Design Index, and any expenses incurred therefor shall be a charge on the ship, so however that the ship shall not be unduly detained or delayed:

Inspection, detention and other measures in respect of ships.
Amended by:
L.N. 183 of 2011.
L.N. ____ of 2012.

Provided that the Registrar-General may permit the ship to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available:

Provided further that, in the case of a non-Maltese ship, such inspection shall be limited to verifying that there is on board in relation to such ship a valid International Oil Pollution Prevention Certificate in the form prescribed by Annex I and an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in the form prescribed by Annex II and the documentation prescribed by Annex III and an International Air Pollution Prevention Certificate, and an International Energy Efficiency Certificate in the form prescribed by Annex VI, as the case may be, unless there are clear grounds for believing that the condition of the ship or its equipment or its cargo does not correspond substantially with the particulars of that certificate or documentation.

(2) In the case of a non-Maltese ship, if the Registrar-General takes such steps as specified in subregulation (1), the Registrar-General shall forthwith notify the maritime Administration and the nearest maritime, consular or diplomatic representative of the flag State of the ship.

(3) Upon receiving evidence that a ship to which these regulations apply has discharged oil or an oily mixture or noxious liquid substances or unassessed liquid substances carried in bulk or a mixture containing such substances or has jettisoned any harmful substances or has emitted any substance in violation of the provisions of these regulations and of the MARPOL Convention or Annex I or Annex II or Annex III, or is not operating in accordance with the set of technical performance standards controlled by Annex VI, the Registrar-General shall investigate the matter and may inspect the ship or cause the ship to be inspected by an appropriate inspector or by any other person duly authorised by the Registrar-General, and shall inform the State which has reported the alleged violation as well as the International Maritime Organization of the action taken:

Provided that, if the investigation establishes a violation of these regulations or of the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI, the owner or the company which has assumed the operation of the ship and the master or any other officer or member of the crew of the ship shall, on conviction, be liable to a fine (multa) as provided for in regulation 12:

Provided further that, in the case of a non-Maltese ship, if the investigation indicates a violation of these regulations or of the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI, the Registrar-General shall provide the flag State of the ship with the report of such investigation and with evidence, if any, of such violation.

(4) For the purposes of this regulation, the provisions of article 154(2) and (3) of the Act shall apply *mutatis mutandis* to the Registrar-General and to appropriate inspectors.

8. If any person –

- (f) intentionally alters a certificate issued or any marking, labeling or documentation carried for the purposes of the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI;
- (g) falsely makes a certificate or any marking, labeling or documentation referred to in the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI;
- (h) in connection with any survey required by the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI knowingly or recklessly furnishes false information;
- (i) with intent to deceive, use, lend, or allow to be used by another, a certificate or any marking, labeling or documentation referred to in the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI;
- (j) fails to surrender a certificate or documentation to be surrendered for the purposes of the MARPOL Convention or Annex I or Annex II or Annex III or Annex VI,

Fraud, misuse of certificates, etc.
Amended by:
L.N. 183 of 2011

such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12 for each offence.

9. (1) No Maltese oil tanker of 150 gross tonnage and above and any other ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage unless there is in force in respect of the ship an International Oil Pollution Prevention Certificate.

Prohibition of proceeding to sea without appropriate certificate.
Substituted by:
L.N. 183 of 2011.
Amended and Re-numbered by:
L.N. ____ of 2012.

(2) No Maltese ship carrying in bulk noxious liquid substances or unassessed liquid substances shall proceed or attempt to proceed to sea on an international voyage unless there is in force in respect of the ship the relevant certificate referred to in regulations 11 and 12A of Annex II as appropriate.

(3) No Maltese ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage unless there is in force in respect of the ship an International Air Pollution Prevention Certificate.

(4) No Maltese ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage unless there is in force in respect of the ship an International Energy Efficiency Certificate.

(5) No oil tanker of 150 gross tonnage and above and any other ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless there is in force in respect of the ship an International Oil Pollution Prevention Certificate.

(6) No ship carrying in bulk noxious liquid substances or unassessed liquid substances shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless there is in force in respect of the ship the relevant certificate referred to in regulations 11 and 12A of Annex II as appropriate.

(7) No ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless there is in force in respect of the ship an International Air Pollution Prevention Certificate.

(8) No ship of 400 gross tonnage and above shall proceed or attempt to proceed to sea on an international voyage from Maltese waters unless there is in force in respect of the ship an International Energy Efficiency Certificate.

(9) No Maltese ship wherever it is, or no other ship while it is in Maltese waters, shall carry harmful substances except in accordance with the provisions of Annex III.

(10) If a ship proceeds or attempts to proceed to sea on an international voyage, in contravention of subregulations (1) to (9), the master of the ship shall be liable to a fine (multa) as provided for in regulation 12.

(11) The master of every ship to which the provisions of subregulations (5) to (8) apply, shall produce to the officer from whom a clearance for the ship is demanded, at the time a clearance for the ship is demanded for a voyage from Malta to a port or place outside Maltese waters, the certificates and documentation referred to in the said subregulations to be in force when the ship proceeds to sea on an international voyage, and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

(12) Where an exemption certificate issued for the purposes of the MARPOL Convention or Annex I or Annex II in respect of a ship specifies any conditions on which the certificate is issued and any of those conditions is not complied with, such person shall, on conviction, be liable to a fine (multa) as provided for in regulation 12.

Duty to report
pollution and other
incidents.

10. In the event of an incident referred to in Protocol I, in the case of a Maltese ship, the same report required by that Protocol to be made to the coastal State shall also be made to the Registrar-General.

Casualties to ships.

11. If a casualty occurs to –

- (c) a Maltese ship wherever it may be; or
- (d) to any ship and such casualty has occurred on the coasts of Malta, including any port installation or ship repair facility, or at sea within Maltese waters, and such casualty produces a major deleterious effect upon the marine environment,

a shipping casualty shall be deemed to have occurred for the purposes of article 312 of the Act, and the provisions of articles 313 to 317 (both inclusive) of the Act shall apply *mutatis mutandis*.

12. If the owner, the company which has assumed the operation of the ship, the master of the ship or any other person contravenes the provisions of these regulations, such person shall, on conviction, be liable to a fine (multa) as specified hereunder:

Penalties.
Amended by:
L.N. 183 of 2011.
L.N. ____ of 2012.

- (h) where there is a contravention of regulation 6(1), a fine (multa) not exceeding five hundred units;
- (i) where there is a contravention of regulation 6(2), a fine (multa) not exceeding five hundred units;
- (j) where there is a contravention of regulation 7(3), a fine (multa) not exceeding ten thousand units;
- (k) where there is a contravention of regulation 8, a fine (multa) not exceeding five hundred units;
- (l) where there is a contravention of regulation 9(10), a fine (multa) not exceeding five hundred units;
- (m) where there is a contravention of regulation 9(12), a fine (multa) not exceeding five hundred units;
- (n) where there is a contravention of regulation 10, a fine (multa) not exceeding five hundred units.

ANNEX 3

RESOLUTION MEPC.203(62)

(This annex also includes the International Energy Efficiency (IEE) Certificate, as well as the Supplement to the IEE Certificate, which is to be found on board ships of 400 gross tonnage and above, once these Regulations come into force).

