



STATUTORY INSTRUMENTS.

S.I. No. 110 of 2024



EUROPEAN COMMUNITIES (SAFE LOADING AND UNLOADING OF
BULK CARRIERS) (AMENDMENT) REGULATIONS 2024

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I, EAMON RYAN, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001¹, as amended by Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Safe Loading and Unloading of Bulk Carriers) (Amendment) Regulations 2024.

2. The European Communities (Safe Loading and Unloading of Bulk Carriers) Regulations 2003 (S. I. No. 347 of 2003) are amended:

- (a) in Regulation 2(1)—
 - (i) by deleting the definition of “Directorate”, and
 - (ii) by substituting for the definitions of “Marine Survey Office” and “Minister” the following:

“ ‘Marine Survey Office’ means Marine Survey Office of the Department of Transport;
‘Minister’ means Minister for Transport;”,
- (b) in Regulation 3(2), by substituting “in exceptional circumstances” for “intermittently”,
- (c) by substituting for Regulation 4 the following:

“Competent authority

4. (1) The Marine Survey Office is designated as the competent authority in the State for the purposes of these Regulations and the Directive.

(2) A function conferred on the Marine Survey Office by these Regulations may be performed by an authorised officer.”,
- (d) in Regulation 5, by renumbering it as Regulation 5(1) and inserting the following:

“(2) A terminal operator who fails to comply with this Regulation commits an offence and is liable on summary conviction to a class A fine. ”,
- (e) in Regulation 6, by inserting after paragraph (4) the following:

¹O.J. No. L013, 16.01.2002 p. 9

²O.J. No. L324, 29.11.2002 p. 53

- “(5) A terminal operator who fails to comply with this Regulation commits an offence and is liable on summary conviction to a class A fine.”,
- (f) in Regulation 8, by inserting after paragraph (4) the following:
 “(4A) A master who fails to comply with this Regulation commits an offence and is liable on summary conviction to a class A fine.”,
- (g) in Regulation 9, by inserting after paragraph (4) the following:
 “(5) A terminal representative who fails to comply with this Regulation commits an offence and is liable on summary conviction to a class A fine.”,
- (h) in Regulation 10, by inserting after paragraph (8) the following:
 “(9) A master or a terminal representative who fails to comply with this Regulation commits an offence and is liable on summary conviction to a class A fine.”,
- (i) in Regulation 11, by renumbering it as Regulation 11(1) and inserting the following:
 “(2) A master or terminal representative who fails to comply with this Regulation commits an offence and is liable on summary conviction to a class C fine.”,
- (j) in Regulation 12, by renumbering it as Regulation 12(1) and inserting the following:
 “(2) A master or a terminal representative who fails to comply with this Regulation commits an offence and is liable on summary conviction to a class C fine.”,
- (k) in Regulation 14, by inserting after paragraph (4) the following:
 “(5) A terminal representative who fails to comply with paragraph (1) or a master or a terminal representative who fails to comply with paragraph (2) commits an offence and is liable on summary conviction to a class A fine.”,
- (l) in Regulations 6(2)(b), 7(2), 10(8), 13, 15(1) and (2), 16(6) and Schedules 4, 5 and 6, by substituting “Marine Survey Office” for “Directorate” in each place it occurs,
- (m) by substituting for Regulation 15 the following:
 “Inspections by Marine Survey Office
15. (1) The Marine Survey Office shall regularly verify that terminals are in compliance with these Regulations and in particular with Regulations 6(1), 8(2) and 9. The procedure of verification shall include the carrying-out of unannounced inspections during loading or unloading operations.
- (2) The Marine Survey Office shall inspect a terminal to ensure that a quality management system is in place and complied with pursuant to these Regulations.”,

- (n) in Regulation 16, by substituting for paragraph (10) the following:

“(10) A person who commits an offence under paragraph (8) or (9) is liable on summary conviction to a class A fine.”,

and

- (o) after Regulation 18, by inserting the following:

“Fixed payment notice

19. (1) Where the Marine Survey Office or an authorised officer believes a person is committing or has committed an offence under these Regulations (other than Regulation 16(10)), the Marine Survey Office or the officer may serve on the person a notice in writing stating that –

- (a) the person is alleged to have committed the offence,
- (b) the person may, during the period of 28 days beginning on the date of service of the notice, pay to the Department of Transport, by the method and at the address specified in the notice, the amount of –
 - (i) €500, in the case of an alleged offence under Regulation 5(2), 6(5), 8(4A), 9(5), 10(9) or 14(5), or
 - (ii) €150, in the case of an alleged offence under Regulation 11(2) or 12(2),

accompanied by the notice or other form of reference,

- (c) the person is not obliged to make the payment, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made in accordance with the notice during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a notice is served under paragraph (1), a prosecution in respect of the alleged offence shall not be instituted during the period specified in the notice and, if the amount specified in the notice is paid in accordance with the notice, the person concerned shall not be prosecuted in respect of the alleged offence.

(3) In a prosecution for an offence referred to in paragraph (1), the onus of showing that a payment in accordance with a notice under this Regulation has been made shall lie on the person against whom the proceedings are brought.

(4) The Department of Transport may receive the payment under a notice under paragraph (1) and issue a receipt for it and retain the money for it to be paid into or disposed of for the benefit of the Exchequer. The payment shall not be recoverable by the person who made it.

(5) A notice under paragraph (1) may be served on a person by –

- (a) delivering it to or leaving it for the person at his or her place of business or where he or she ordinarily resides or, in case the person is the master of a ship, leaving it on board the ship concerned,
- (b) sending it by electronic mail (where receipt of delivery of the e-mail is generated) to the person, or
- (c) in case an address for service of notices has been given by the person, by post or electronic mail (where receipt of delivery of the e-mail is generated) to the person at that address.

(6) For the purposes of this Regulation, a company (within the meaning of the Companies Act 2014) shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.”.



GIVEN under my Official Seal,
27 March, 2024.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations amend S. I. No. 347 of 2003 by making the Marine Survey Office of the Department of Transport the competent authority in the State for enforcing the Regulations. The Regulations make consequential changes and provide for penalties and fixed payment notices.

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