



STATUTORY INSTRUMENTS.

S.I. No. 686 of 2011

EUROPEAN UNION (INSURANCE OF SHIPOWNERS FOR MARITIME
CLAIMS) REGULATIONS 2011

(Prn. A11/2384)

EUROPEAN UNION (INSURANCE OF SHIPOWNERS FOR MARITIME CLAIMS) REGULATIONS 2011

I, LEO VARADKAR, Minister for Transport, Tourism and Sport, 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 effect to Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009¹, hereby make the following regulations:

Citation and commencement

1. These Regulations may be cited as the European Union (Insurance of Shipowners for Maritime Claims) Regulations 2011.

Interpretation

2. (1) In these Regulations—

“competent authority” means the competent authority designated under Regulation 4 of the Port State Control Regulations;

“Directive” means Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009¹;

“enactment” means a statute or an instrument made under a power conferred by a statute;

“gross tonnage” means gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships 1969;

“master”, in relation to a ship, means the person (excluding, where appropriate, a pilot) having, for the time being, the command or charge of the ship;

“Minister” means Minister for Transport, Tourism and Sport;

“owner”, in relation to a ship, means the registered owner of the ship, or any other person such as the bareboat charterer who is responsible for the operation of the ship;

“port” and “port authority” have the meanings assigned to them by the Port State Control Regulations;

“Port State Control Regulations” means the European Communities (Port State Control) Regulations 2010 (S.I. No. 656 of 2010);

¹OJ No. L. 131, 28.5.2009, p. 128

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 30th December, 2011.

“SafeSeasIreland” means the maritime information exchange system comprising a data exchange network and standardising of the main information available on ships and their cargo developed by the Minister under Article 22a of and Annex III to Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002²;

“ship” means a sea-going ship.

(2) A word or expression that is used in these Regulations and that is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in that Directive.

Application

3. (1) These Regulations apply to ships of 300 gross tonnage or more.

(2) These Regulations do not apply to warships, auxiliary warships or other ships owned or operated by a state and used for non-commercial purposes.

(3) These Regulations are in addition to, and not in substitution for, the provisions of any enactment giving the force of law in the State to the instruments listed in the Annex to the Directive.

Ships to have insurance

4. (1) The owner of a ship which has been granted the right to fly the flag of the State shall have insurance in force in respect of the ship.

(2) The owner of a ship who fails to comply with paragraph (1) commits an offence and is liable on summary conviction to a Class A fine or imprisonment for a term not exceeding 12 months or both.

(3) The owner of a ship flying a flag other than that of the State—

(a) shall have insurance in force in respect of the ship when it enters a port in the State, and

(b) shall ensure that proof of such insurance in the form of a certificate or certificates referred to in Regulation 5(2) is carried on board the ship.

(4) The owner or master of a ship referred to in paragraph (3) shall furnish the competent authority with the name of the provider of the insurance, and the type, commencement date and number of the insurance contract, using SafeSeasIreland or, where for technical reasons SafeSeasIreland is unavailable, by using telephone, fax, e-mail or other electronic means—

(a) at least 24 hours in advance of the ship’s estimated time of arrival at the port in the State for which the ship is bound,

(b) if the voyage time is estimated to be less than 24 hours, not later than the time the ship leaves the previous port, or

²OJ No. L. 208, 5.8.2002, p. 10

- (c) if the port in the State is not known at the time of the ship's departure from the previous port, or it is changed during the voyage, as soon as the port in the State for which the ship is bound is known.

Insurance required

5. (1) An owner of a ship that is required to have insurance under Regulation 4 shall ensure that the insurance covers maritime claims subject to limitation of liability under the 1996 Convention and that the limits of liability in that insurance in respect of any one incident is of an amount equal to the relevant maximum amount set under that Convention.

(2) The existence of the insurance cover referred to in paragraph (1) shall be proved by one or more insurance certificates issued by the insurance provider containing the following information:

- (a) the name of the ship, its IMO number, and its port of registry;
- (b) the owner's name and principal place of business;
- (c) the type and duration of the insurance;
- (d) the name and principal place of business of the provider of the insurance and, where appropriate, the place of business where the insurance is established.

Expulsion order

6. (1) Where, as a result of an inspection under the Port State Control Regulations or otherwise, it becomes evident that one or more insurance certificates meeting the requirements of Regulation 5 is not on board a ship flying the flag of a state other than that of the State, the competent authority may, without prejudice to any power to detain the ship under the Port State Control Regulations, issue an expulsion order against the ship by serving the order on the owner or master of the ship.

(2) An expulsion order shall have the following effects:

- (a) it prohibits the carrying on of such operations of the ship as are specified in the order;
- (b) it directs the owner or the master of the ship to ensure that the ship leaves the port as soon as practicable, and prohibits the ship from entering any other port in the State, unless the owner produces an insurance certificate that complies with Regulation 5 within 24 hours of the expulsion order being served.

(3) An expulsion order takes effect when the order is served under paragraph (1).

(4) The competent authority shall notify the person served with an expulsion order under paragraph (1) of the practical arrangements for lodging an appeal against the order.

- (5) When an expulsion order is issued, the competent authority shall notify—
- (a) the port authority concerned and all other port authorities in the State,
 - (b) the European Commission, and
 - (c) the competent authorities of other Member States,

of the existence of the expulsion order.

- (6) The competent authority shall lift the expulsion order if—
- (a) proof of insurance is furnished by producing to the competent authority one or more insurance certificates meeting the requirements of Regulation 5, or
 - (b) an appeal under Regulation 7 is allowed.

(7) As soon as practicable after an expulsion order has been lifted, the competent authority shall notify the persons referred to in paragraph (5) that the expulsion order has been lifted.

Right of appeal

7. (1) The owner of a ship may appeal against an expulsion order issued under Regulation 6(1) and such an appeal shall be made—

- (a) to the judge of the Circuit Court in whose Circuit is located the port where the ship is, and
- (b) within a period of 24 hours of the service of the expulsion order unless the Court considers that there is good or sufficient reason for extending that period.

(2) An appeal under this Regulation shall not cause an expulsion order to be suspended.

(3) On hearing the appeal, the Court may confirm the expulsion order, or allow the appeal and vacate the order.

(4) A decision of the Circuit Court on an appeal under this Regulation shall be final.

Refusal of access

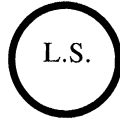
8. Where the competent authority is notified of the making or lifting of an expulsion order by the competent authority of another Member State, it shall without delay notify all port authorities that such ship is to be refused access to ports in the State, or is no longer to be refused access, as the case may be.

Prosecution of offences

9. (1) Where an offence under Regulation 4(2) is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been attributable to the neglect on the part of, any

person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Proceedings for an offence under Regulation 4(2) may be brought and prosecuted by the Minister.



GIVEN under my Official Seal,
21 December 2011.

LEO VARADKAR,
Minister for Transport Tourism and Sport.

EXPLANATORY NOTE

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

These Regulations give effect to Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims. These Regulations come into operation on 1st January 2012.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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