



STATUTORY INSTRUMENTS.

S.I. No. 476 of 2017



EUROPEAN UNION (CARBON DIOXIDE EMISSIONS FROM
MARITIME TRANSPORT) REGULATIONS 2017

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I, SHANE ROSS, 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 full effect to Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Carbon Dioxide Emissions from Maritime Transport) Regulations 2017.

Interpretation

2. (1) In these Regulations—

“competent authority” means the body designated as the competent authority under Regulation 3;

“expulsion order” has the meaning given to it by Regulation 7;

“inspector” means a person appointed under Regulation 5;

“master”, in relation to a ship, means the person 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 person registered in the State, as its owner or, if no person is so registered, the person who owns the ship, and includes any part owner, charterer, manager or operator of the ship;

“Port State Control Regulations” means the European Communities (Port State Control) Regulations 2010 (S.I. No. 656 of 2010) (amended by the European Union (Port State Control) (Amendment) Regulations 2014 (S.I. No. 519 of 2014));

“Regulation 2015/757” means Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015¹ on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Directive 2009/16/EC².

¹OJ No. L 123, 19.05.2015, p.55

²OJ No. L 131, 28.05.2009, p.57

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th November, 2017.*

(2) A word or expression which is used in these Regulations and which is also used in Regulation 2015/757 has, unless the context otherwise requires, the same meaning in these Regulations as it has in Regulation 2015/757.

Competent authority

3. The Marine Survey Office is designated as the competent authority in the State for the purposes of Regulation 2015/757 and these Regulations.

Accreditation body

4. The Irish National Accreditation Board is designated as the national accreditation body in the State for the purposes of Regulation 2015/757.

Appointment of inspectors

5. (1) The Minister may appoint a person as an inspector for the purposes of Regulation 2015/757 and these Regulations and may revoke any such appointment.

(2) The Minister shall furnish an inspector with a warrant of his or her appointment and, when exercising a power conferred by these Regulations, the inspector shall, if requested by a person affected, produce the warrant or a copy of it to that person.

Powers of inspectors

6. (1) An inspector may do all such things as he or she considers necessary for the purpose of ensuring compliance with Regulation 2015/757 and these Regulations.

(2) Without prejudice to the generality of paragraph (1) and any other provision of these Regulations, an inspector may do any or all of the following:

- (a) at any time, go on board any ship while the ship is in the State;
- (b) inspect any document on board the ship and require any person on board to produce to him or her any document in his or her possession or control or to make return to any enquiry;
- (c) require any person on board a ship to furnish him or her with his or her name and address;
- (d) copy any entry in any relevant document or record and require the person by whom the document or record is kept to certify the copy as a true copy of the entry;
- (e) copy any entry in any log book of the ship or other record on the ship and require the owner or master of the ship to certify the copy as a true copy of the entry.

(3) For the purpose of boarding a ship in order to exercise his or her functions under these Regulations, an inspector may require the owner or master of the ship to take such measures and provide such facilities as may be necessary to enable him or her to go on board.

(4) An inspector may, for the purposes of these Regulations, require the owner or master of a ship to be and remain on board whilst he or she is carrying out an inspection and the inspector may require that person to answer any questions or to furnish any information which may appear to the inspector to be necessary or relevant.

Expulsion orders

7. (1) Where a ship fails to comply with the monitoring and reporting requirements in the circumstances set out in Article 20(3) of Regulation 2015/757, the competent authority may serve an order (in this Regulation referred to as an “expulsion order”) on the owner or master of the ship.

(2) An expulsion order shall direct the owner or master of the ship to ensure that the ship leaves the port as soon as practicable, and shall prohibit the ship from entering any other port in the State.

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

(4) The competent authority shall inform the person served with an expulsion order under paragraph (1) of its reasons for serving the order and of the right to bring an appeal under Regulation 8.

(5) Where an expulsion order is served under paragraph (1), the competent authority shall give notice to the following:

- (a) the port authority concerned and all other port authorities in the State;
- (b) the European Commission;
- (c) the European Maritime Safety Agency;
- (d) the competent authorities of other Member States;
- (e) the flag state concerned.

(6) The competent authority shall by notice served on the owner or master of the ship, withdraw the expulsion order if—

- (a) proof of a valid document of compliance is furnished to the competent authority, or
- (b) an appeal under Regulation 8 is allowed.

(7) As soon as practicable after an expulsion order has been withdrawn, the competent authority shall give notice to the persons referred to in paragraph (5) of the withdrawal.

Appeal against expulsion order

8. (1) A person being the owner or master of the ship may appeal against an expulsion order served under Regulation 7(1) and such an appeal shall be made

to the judge of the Circuit Court in whose circuit the port in which the ship was located on the date the expulsion order was served.

(2) A notice of an appeal shall contain a statement of the grounds on which the appeal is made and be made by written notice, which shall be lodged with the appropriate office of the Court within 7 working days of the date upon which the order concerned was served, unless the Court considers that there is good and sufficient reason for extending that period.

(3) A copy of the notice of appeal shall be given by the person who makes an appeal under this Regulation to the competent authority not less than 48 hours before the hearing of the appeal and the competent authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(4) An appeal under this Regulation shall not have the effect of suspending the operation of the expulsion order.

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

(6) A decision of the Circuit Court on an appeal under this Regulation shall be final, save that, by leave of the Court an appeal from the decision shall lie to the High Court on a specified question of law.

Expulsion orders in other Member States

9. Where the competent authority is notified of the service or withdrawal of an expulsion order by the competent authority of another Member State, it shall without delay notify all port authorities in the State 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.

Service of documents

10. (1) A notice, order or other document that is required to be served on or given to a person by these Regulations shall be addressed to the person concerned by name, and may be so served on or given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address; or
- (d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or

documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner.

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

(3) Where an opinion, finding, statement or decision of the competent authority is contained in a document which—

- (a) purports to have been made by, or at the direction of the competent authority, and
- (b) is produced in evidence by an officer of the competent authority in any proceedings,

such document shall be admissible in evidence and shall be evidence of any such opinion, finding, statement or decision in such proceedings without further proof.

Offences

11. (1) A person who contravenes Article 8, 9, 10, 11 or 12 of Regulation 2015/757 shall be guilty of an offence.

(2) A person who—

- (a) refuses or neglects to make any answer, or to give any return, or to produce any document to an inspector, or to make or subscribe to any declaration, or to certify a copy of any entry which the inspector is entitled to require,
- (b) on being requested by an inspector to stop a ship for the purpose of enabling the inspector to board the ship in order to carry out an inspection, fails or neglects to bring the ship to a stop,
- (c) wilfully impedes an inspector in the exercise of his or her functions under these Regulations, or
- (d) being the owner or master of a ship required to stay on board by an inspector, fails to do so,

shall be guilty of an offence.

(3) A person guilty of an offence under these Regulations shall be liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €300,000.

(4) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any 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 such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Minister.

Amendment of Port State Control Regulations

12. The Port State Control Regulations are amended in Regulation 2(1) by the substitution of the following for the definition of “Port State Control Directive”:

“ ‘Port State Control Directive’ means Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009² as amended by Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013³, Regulation (EU) 1257/2013 of the European Parliament and of the Council of 20 November 2013⁴ and Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015¹;”.



GIVEN under my Official Seal,
3 November 2017.

SHANE ROSS,
Minister for Transport, Tourism and Sport.

³OJ No. L 218, 14.08.2013, p.1

⁴OJ No. L 330, 10.12.2013, p.1

EXPLANATORY NOTE

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

These Regulations provide for offences and penalties, as well as powers of inspection, as required by Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport.

Regulation (EU) 2015/757 sets out rules for the monitoring, reporting and verification of carbon dioxide emissions from ships arriving at, within or departing from ports under the jurisdiction of an EU Member State.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
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