

Gibraltar Merchant Shipping (Safety, etc.)
GIBRALTAR MERCHANT SHIPPING (INSURANCE FOR
MARITIME CLAIMS) REGULATIONS 2012

1995-13

Subsidiary
2012/026

Subsidiary Legislation made under s. 118.

GIBRALTAR MERCHANT SHIPPING (INSURANCE FOR
MARITIME CLAIMS) REGULATIONS 2012

(LN. 2012/026)

Commencement **5.3.2012**

Amending enactments	Relevant current provisions	Commencement date
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EU Legislation/International Agreements involved:

Directive 2009/20/EC

In exercise of the powers conferred on it by section 118 of the Gibraltar Merchant Shipping (Safety, etc.) Act 1993, and all other enabling powers, and for the purpose of transposing into the law of Gibraltar Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Insurance for Maritime Claims) Regulations 2012 and come into operation on the day of publication.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

“1996 Convention” means the consolidated text of the 1976 Convention on Limitation of Liability for Maritime Claims, adopted by the International Maritime Organisation (IMO), as amended by the 1996 Protocol.

“Administration” means the Maritime Administrator;

“BGTW” means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

“insurance” means insurance with or without deductibles, and comprises, for example, indemnity insurance of the type currently provided by members of the International Group of P & I Clubs, and other effective forms of insurance (including proved self insurance) and financial security offering similar conditions of cover;

“shipowner” means the registered owner of a seagoing ship, or any other person such as the bareboat charterer who is responsible for the operation of the ship.

Application of these Regulations.

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

(2) These Regulations shall not apply to warships, auxiliary warships or other State owned or operated ships used for a non commercial public service.

(3) These Regulations shall be without prejudice to the regimes established by the following EU and international instruments as they have effect in Gibraltar–

Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents;

the International Convention on Civil Liability for Oil Pollution Damage 1992;

the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996 (HNS Convention);

the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 (“Bunker Oil” Convention); and

the Nairobi International Convention on the Removal of Wrecks, 2007 (“Wrecks Removal” Convention).

Insurance for maritime claims.

4.(1) Every shipowner of a ship flying the flag of Gibraltar must have insurance covering that ship.

(2) Every shipowner of a ship flying a flag other than the flag of Gibraltar must have insurance in place when that ship enters the port of Gibraltar.

(3) Every shipowner of a ship flying a flag other than the flag of Gibraltar must, if in conformity with international law, have insurance in place when that ship is operating in BGTW.

(4) The insurance referred to in subregulations (1) to (3) must cover maritime claims subject to limitation under the 1996 Convention.

(5) The amount of the insurance for each and every ship per incident must be equal to the relevant maximum amount for the limitation of liability as laid down in the 1996 Convention.

Inspections, compliance, expulsion from the port and denial of access to the port.

5.(1) The Administration shall ensure that any inspection of a ship in the port of Gibraltar in accordance with the Gibraltar Merchant Shipping (Port State Control) Regulations 2011 includes verification that a certificate referred to in regulation 6 is carried on board.

(2) If the certificate referred to in regulation 6 is not carried on board, and without prejudice to the Gibraltar Merchant Shipping (Port State Control) Regulations 2011 providing for detention of ships when safety issues are at stake, the Administration may issue an expulsion order to the ship which shall be notified to the European Commission, the Member States and the flag State concerned.

(3) The Administration shall refuse entry into the port of Gibraltar to any ship which has been issued with an expulsion order by any Member State pursuant to Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of ship-owners for maritime claims, and such refusal shall prevail until such time as the shipowner notifies to the Administration the insurance certificate referred to in Article 6 of that Directive in respect of that ship.

Insurance certificates.

6.(1) The existence of the insurance referred to in regulation 4 shall be proved by one or more certificates issued by its provider and carried on board the ship.

(2) The certificates issued by the insurance provider shall include the following information–

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

(3) If the language used in the certificates is not English, the text must include a translation into English.

Offence and penalty.

7. Where a shipowner contravenes regulation 4 (1), (2) or (3), that owner commits an offence and is liable to a fine not exceeding twice level 5 on the standard scale.