

Subsidiary Legislation made under s. 118.

**GIBRALTAR MERCHANT SHIPPING (REPORTING
FORMALITIES FOR SHIPS) REGULATIONS 2012**

(LN. 2012/096)

Commencement **5.7.2012**

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

Directive 2002/6/EC
Directive 2010/65/EU

ARRANGEMENT OF REGULATIONS

Regulations

1. Title and commencement.
2. Interpretation.
3. Purpose of these Regulations.
4. Application of these Regulations.
5. Harmonisation and coordination of reporting formalities.
6. Notification prior to arrival into the Port.
7. Electronic transmission of data.
8. Exchange of data.
9. Information in FAL forms.
10. Confidentiality.
11. Enforcement.
12. Repeal.
13. Savings and transitional provisions.

SCHEDULE

1995-13

Gibraltar Merchant Shipping (Safety, etc.)

**Subsidiary
2012/096**

**GIBRALTAR MERCHANT SHIPPING (REPORTING
FORMALITIES FOR SHIPS) REGULATIONS 2012**

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 purposes of transposing into the law of Gibraltar, Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/ or departing from ports of the Member States and repealing Directive 2002/6/EC, the Government has made the following Regulations—

Title and commencement.

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

Interpretation.

2. In these Regulations—

“Act” means the Gibraltar Merchant Shipping (Safety, etc.) Act 1993;

“Captain of the Port” shall have the meaning assigned to it by section 2(1) of the Port Act;

“Directive” means Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC, as the same may be amended from time to time;

“electronic transmission of data” means the process of transmitting information that has been encoded digitally, using a revisable structured format which can be used directly for storage and processing by computers;

“FAL Convention” means the IMO Convention on Facilitation of International Maritime Traffic, adopted on 9 April 1965, as amended;

“FAL forms” means the standardised forms, as provided for in the FAL Convention;

“Gibraltar ship” means a ship which is registered in Gibraltar in accordance with the Gibraltar Merchant Shipping (Registration) Act 1993;

**GIBRALTAR MERCHANT SHIPPING (REPORTING
FORMALITIES FOR SHIPS) REGULATIONS 2012**

“Maritime Administration” means the Maritime Administrator appointed under section 3 of the Gibraltar Merchant Shipping (Registration) Act, 1993 or any other qualified officer in his office;

“Port of Gibraltar” shall have the meaning assigned to it by regulation 2(1) of the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004;

“reporting formalities” means the information set out in the Schedule which, in accordance with these Regulations, must be provided for administrative and procedural purposes when a ship arrives in or departs from the Port of Gibraltar;

“ship” means any seagoing vessel or craft;

“SafeSeaNet” shall have the meaning assigned to it by regulation 2(1) of the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004.

Purpose of these Regulations.

3. The purpose of these Regulations is to simplify and harmonise the administrative procedures applied to maritime transport by –

- (a) making the electronic transmission of information standard; and
- (b) rationalising reporting formalities.

Application of these Regulations.

4.(1) These Regulations apply to the reporting formalities applicable to maritime transport for ships arriving in, and ships departing from, the Port of Gibraltar.

(2) These Regulations shall not apply to ships exempted from reporting formalities.

Harmonisation and coordination of reporting formalities.

5. The Captain of the Port must take measures to ensure that the reporting formalities are requested in a harmonised and coordinated manner and comply with any mechanism developed by the European Commission pursuant to Article 3(2) of the Directive.

Notification prior to arrival into the port.

6.(1) This regulation applies to–

- (a) a Gibraltar ship bound for a port located in any Member State;
and
- (b) a non-Gibraltar ship bound for the Port of Gibraltar.

(2) The operator, agent or master of a ship referred to in sub-regulation (1) shall notify the port authority of the port to which the ship in question is bound the information required under the reporting formalities.

(3) The information referred to in sub-regulation (2) shall be notified–

- (a) at least 24 hours in advance;
- (b) at the latest, at the time the ship leaves the previous port, if the voyage time is less than 24 hours; or
- (c) if the port of call is not known or it is changed during the voyage, as soon as this information is available.

Electronic transmission of data.

7.(1) The Captain of the Port must accept the fulfilment of reporting formalities in electronic format and their transmission via a single window as soon as possible and in any case no later than 1 June 2015.

(2) The single window referred to in sub-regulation (1) shall be the place where, in accordance with these Regulations, all information is reported once and made available to various competent authorities and the Member States.

(3) Without prejudice to the relevant format set out in the FAL Convention, the format referred to in sub-regulation (1) must comply with regulation 8.

(4) For the purposes of these Regulations, the electronic systems referred to in sub-regulation (2) must be interoperable, accessible and compatible with the SafeSeaNet systems established in accordance with the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004.

Exchange of data.

**GIBRALTAR MERCHANT SHIPPING (REPORTING
FORMALITIES FOR SHIPS) REGULATIONS 2012**

8.(1) The Captain of the Port must ensure that any information in category A of the Schedule received is made available in the SafeSeaNet system in Gibraltar and that any relevant parts of such information are made available to Member States via the SafeSeaNet system.

(2) The Captain of the Port must ensure that the information received in accordance with sub-regulation (1) is accessible, upon request, to the Member States' relevant national authorities.

(3) The underlying digital format of the messages to be used within SafeSeaNet system in accordance with sub-regulation (1) must be established in accordance with regulation 22B of the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004.

(4) The Captain of the Port may provide relevant access to the information referred to in sub-regulation (1) either through a single window via an electronic data exchange system or through the SafeSeaNet systems.

Information in FAL forms.

9.(1) The Captain of the Port must accept FAL forms for the fulfilment of reporting formalities.

(2) The Captain of the Port may only accept information under sub-regulation (1) in a paper format until 1 June 2015.

(3) Personal data collected from the implementation of these Regulations shall be subject to the provisions of the Data Protection Act 2004.

Confidentiality of information.

10.(1) The Captain of the Port and the Maritime Administration must take the necessary measures to ensure the confidentiality of commercial and other confidential information exchanged in accordance with these Regulations.

(2) The Captain of the Port and the Maritime Administration must take particular care to protect commercial data collected under these Regulations.

Enforcement.

11. Where a person referred to in regulation 6(2), to which these Regulations apply, fails to comply with the requirements of regulation 6, the

ship shall be refused entry to the Port of Gibraltar by the Captain of the Port or detained by the Maritime Administration until those requirements are complied with.

Repeal.

12. The Gibraltar Merchant Shipping (Reporting Formalities for Ships) Regulations 2006 are repealed.

Saving and transitional provisions.

13. A ship which prior to the coming into operation of these Regulations had complied with the reporting formalities under the regulations repealed by regulation 12 shall be deemed to have complied with the reporting formalities under these Regulations.

SCHEDULE

Regulations 8 and 9.

**LIST OF REPORTING FORMALITIES REFERRED TO IN THESE
REGULATIONS**

A. This category of reporting formalities includes the information which shall be provided in accordance with the following provisions:

Notification for ships arriving in and departing from the Port of Gibraltar:

Regulation 5 of the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004.

Notification of dangerous or polluting goods carried on board:

Regulation 12 of the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004.

Notification of waste and residues:

Regulation 12 of the Gibraltar Merchant Shipping (Port Waste Reception Facilities) Regulations, 2002.

Notification of security information:

Article 6 of Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (OJ L 129, 29.4.2004, p. 6).

Until the adoption of a harmonised form at international level, the form set out in the Appendix to this Schedule shall be used for the transmission of information required under Article 6 of Regulation (EC) No 725/2004. The form can be transmitted electronically.

B. FAL forms and formalities resulting from international legal instruments:

Gibraltar Merchant Shipping (Safety, etc.)

1995-13

GIBRALTAR MERCHANT SHIPPING (REPORTING FORMALITIES FOR SHIPS) REGULATIONS 2012

Subsidiary
2012/096

This category of reporting formalities includes the information which shall be provided in accordance with the FAL Convention and other relevant international legal instruments.

1. FAL form 1: General Declaration,
2. FAL form 2: Cargo Declaration,
3. FAL form 3: Ship's Stores Declaration,
4. FAL form 4: Crew's Effects Declaration,
5. FAL form 5: Crew List,
6. FAL form 6: Passenger List,
7. FAL form 7: Dangerous Goods, and
8. Maritime Declaration of Health.

APPENDIX

SHIP PRE-ARRIVAL SECURITY INFORMATION FORM FOR ALL SHIPS PRIOR TO ENTRY INTO THE PORT OF AN EU MEMBER STATE

(1974 International Convention for the Safety of Life at Sea (SOLAS)
Regulation 9 of Chapter XI-2 and Article 6(3) of Regulation (EC) No
725/2004)

Particulars of the ship and contact details			
IMO number		Name of Ship	
Port of registry		Flag State	
Type of ship		Call sign	
Gross tonnage		Inmarsat call numbers (if available)	
Name of company and company identification number		CSO name and 24 hour contact details	
Port of arrival		Port facility of arrival (if known)	

Gibraltar Merchant Shipping (Safety, etc.)

GIBRALTAR MERCHANT SHIPPING (REPORTING FORMALITIES FOR SHIPS) REGULATIONS 2012

Subsidiary
2012/096

Port and port facility information						
Expected date and time of arrival of the ship in port (ETA)						
Primary purpose of call						
Information required by SOLAS Regulation 9.2.1 of Chapter XI-2						
Does the ship have a valid International Ship Security Certificate (ISSC)?	YES	ISSC	NO – Why not?	Issued by (name of Administration or RSO)	Expiry date (dd/mm/yyyy)	
Does the ship have an approved SSP on board?	YES	NO	Security level at which the ship is currently operating?	Security Level 1	Security Level 2	Security Level 3
Location of ship at the time this report is made						
List the last 10 calls at port facilities in chronological order (most recent call first):						

No	Date from (dd/mm/yyyy)	Date to (dd/mm/yyyy)	Port	Country	UN/LOC ODE (if available)	Port facility	Security level	
1							SL =	
2							SL =	
3							SL =	
4							SL =	
5							SL =	
6							SL =	
7							SL =	
8							SL =	
9							SL =	
10							SL =	
Did the ship take any special or additional security measures, beyond those in the approved SSP? If the answer is YES, indicate below the special or additional security measures taken by the ship.						YES	NO	
No (as above)		Special or additional security measures taken by the ship						

Gibraltar Merchant Shipping (Safety, etc.)

1995-13

GIBRALTAR MERCHANT SHIPPING (REPORTING FORMALITIES FOR SHIPS) REGULATIONS 2012

**Subsidiary
2012/096**

1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
List the ship-to-ship activities, in chronological order (most recent first), which were carried out during the last 10 calls at port facilities listed above. Expand table below or continue on separate page if necessary – insert total number of ship-to-ship activities:						
Were the ship security procedures specified in the approved SSP maintained during each of these ship-to-ship activities? If NO, provide details of the security measures applied in lieu in the final column below.					YES	NO
No	Date from (dd/mm/yyyy)	Date to (dd/mm/yyyy)	Location or longitude and latitude	Ship-to- ship activity	Security measures applied in lieu	
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
General description of the cargo aboard the ship						

1995-13

Gibraltar Merchant Shipping (Safety, etc.)

Subsidiary
2012/096

GIBRALTAR MERCHANT SHIPPING (REPORTING FORMALITIES FOR SHIPS) REGULATIONS 2012

Is the ship carrying any dangerous substances as cargo covered by any of Classes 1, 2.1, 2.3, 3, 4.1, 5.1, 6.1, 6.2, 7 or 8 of the IMDG Code?	YES	NO	If YES, confirm Dangerous Goods Manifest (or relevant extract) is attached	
Confirm a copy of the ship's crew list is attached	YES	Confirm a copy of the ship's passenger list is attached	YES	
Other security-related information				

Is there any security-related matter you wish to report?	YES	Provide details:	NO
Agent of ship at intended port of arrival			
Name:		Contact details (Tel. No):	
Identification of person providing the information			
Title or Position (delete as appropriate): Master/SSO/CSO/Ship's agent (as above)	Name:	Signature:	
Date/time/place of completion of report			