

# **1995-13**      Gibraltar Merchant Shipping (Safety, etc.)

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Subsidiary Legislation made under ss.98 and 110.

## **Gibraltar Merchant Shipping (Phasing-in of Double Hull Oil Tankers) Regulations 2004**

**LN.2004/057**

*Commencement*                      **1.7.2004**

**Implementing:**  
Regulation 417/2002/EC

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### **ARRANGEMENT OF REGULATIONS**

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*In exercise of the powers conferred by sections 98 and 110 of the Gibraltar Merchant Shipping (Safety, etc.) Act, 1993 and all other enabling powers, the Government has, for the purposes of facilitating the implementation of Regulation (EC) No. 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers, and repealing Council Regulation (EC) 2978/94, as amended by Regulation (EC) No 1726/2003 of the European Parliament and of the Council of 22 July 2003, made the following Regulations:*

**Title.**

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Phasing-in of Double Hull Oil Tankers) Regulations 2004.

**Interpretation.**

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

“age” means the age of the ship, expressed in number of years after the date of its delivery;

“Article” means an article of Regulation (EC) No 417/2002;

“category 1 oil tanker” means an oil tanker of 20,000 tons deadweight and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and of 30,000 tons deadweight and above carrying oil other than the above, which does not comply with the requirements for new oil tankers as defined in Regulation 1(26) of Annex I of MARPOL 73/78;

“category 2 oil tanker” means an oil tanker of 20,000 tons deadweight and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and of 30,000 tons deadweight and above carrying oil other than the above, which complies with the requirements for new oil tankers as defined in Regulation 1(26) of Annex I of MARPOL 73/78;

“category 3 oil tanker” means an oil tanker of 5,000 tons deadweight and above but less than that specified in the definitions of category 1 and category 2 oil tankers;

“deadweight” means deadweight as defined in Regulation 1(22) of Annex 1 of MARPOL 73/78;

“double hull oil tanker” means an oil tanker meeting the double hull or equivalent design requirements of Regulation 13F of Annex I to MARPOL 73/78 and includes an oil

tanker meeting the provisions of paragraph 1(c) of revised Regulation 13G of Annex I of MARPOL 73/78;

“fuel oil” means heavy distillates or residues from crude oil or blends of such materials as defined in revised Regulation 13G of Annex I of MARPOL 73/78.

“Gibraltar waters” means the area of waters contained within British territorial waters in Gibraltar;

“Government ship” means a ship falling within Part VII of the Gibraltar Merchant Shipping (Registration) Act 1993;

“heavy diesel oil” means diesel oil as defined in revised Regulation 13G of Annex I of MARPOL 73/78;

“heavy grades of oil” means—

- (a) crude oils with a density at 15°C of over 900 kg/m<sup>3</sup> (corresponding to an API grade of less than 25.7);
- (b) fuel oils with a density at 15°C of over 900 kg/ m<sup>3</sup> a kinematic viscosity at 50°C of over 180 mm<sup>2</sup>/s (corresponding to a kinematic viscosity of over 180 cSt’.);
- (c) bitumen and tar and emulsions thereof;

“Member State” means any State within the European Union, and a reference to a Member State shall be deemed to include Gibraltar;

“Maritime Administrator” means the person appointed under section 3 of the Gibraltar Merchant Shipping (Safety, etc.) Act,1993;

“MARPOL 73/78” means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto together with the amendments thereto, in its up-to date version as in force on the date of reference;

“new oil tanker” means a new oil tanker as defined in Regulation 1(26) of Annex I of MARPOL 73/78;

“oil tanker” means an oil tanker as defined in Regulation 1(4) of Annex I of MARPOL 73/78;

“Port” means—

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- (a) that area of water and the foreshore adjacent thereto as is commonly known and recognised as the Port, roadstead and anchorage ground of Gibraltar including Admiralty and Port Waters as defined from time to time in any relevant legislation;
- (b) all that area of land defined as being part of the Port in the Port Act; and
- (c) the area within Gibraltar territorial waters commonly known as the Eastern Anchorage, within the following co-ordinates:

Position	36° 09'.0 N	–	005° 19'.7 W
“	36° 09'.0 N	–	005° 17'.5 W
“	36° 07'.2 N	–	005° 17'.5 W
“	36° 06'.5 N	–	005° 19'.7 W

“revised Regulation 13G of Annex I of MARPOL 73/78” means the amendments to Regulation 13G of Annex I to MARPOL 73/78 and to the Supplement to the IOPP Certificate, as adopted by Resolution MEPC 94(46) of 27 April 2001 which entered into force on 1 September 2002;

“single hull oil tanker” means an oil tanker not meeting the double hull or equivalent design requirements of Regulation 13F of Annex I of MARPOL 73/78;

“Regulation (EC) No. 417/2002” means Regulation (EC) No. 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) 2978/94, as amended by Regulation (EC) No 1726/2003 of the European Parliament and of the Council of 22 July 2003.

**Application.**

3.(1) The provisions of these Regulations and Regulation (EC) No. 417/2002 shall apply to any oil tanker of 5000 tons deadweight and above that enters or leaves the Port or anchors in Gibraltar waters, irrespective of its flag, that flies the Gibraltar flag.

(2) For the purpose of subregulations (1) and (2) of regulation 5, subregulation (1) of this regulation shall apply to oil tankers 600 tons deadweight and above.

(3) These Regulations do not apply to—

- (a) war ships;

- (b) naval auxiliaries;
- (c) a vessel which is owned or operated by a Member State and used for Government non-commercial purposes;
- (d) a Gibraltar Government ship used for non-commercial purposes.

**Competent authority.**

4. The Maritime Administrator is designated the competent authority for Gibraltar for the purposes of Regulation (EC) No 417/2002 and these Regulations.

**Compliance with the double hull or equivalent design requirements by single hull oil tankers.**

5.(1) The competent authority shall ensure that no oil tanker is allowed to operate under the Gibraltar flag, nor any oil tanker, irrespective of its flag, is allowed to enter into or leave the Port or anchor in Gibraltar waters after the anniversary of the date of delivery of the ship in the year specified in subregulation (2) below, unless that tanker is a double hull oil tanker.

(2) The year referred to in subregulation (1) above is specified as follows:

- (a) for category 1 oil tankers—
  - (i) 2003 for ships delivered in 1980 or earlier,
  - (ii) 2004 for ships delivered in 1981,
  - (iii) 2005 for ships delivered in 1982 or later;
- (b) for category 2 and 3 oil tankers—
  - (i) 2003 for ships delivered in 1975 or earlier,
  - (ii) 2004 for ships delivered in 1976,
  - (iii) 2005 for ships delivered in 1977,
  - (iv) 2006 for ships delivered in 1978 and 1979,
  - (v) 2007 for ships delivered in 1980 and 1981,

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- (vi) 2008 for ships delivered in 1982,
- (vii) 2009 for ships delivered in 1983,
- (viii) 2010 for ships delivered in 1984 or later.

(3) The competent authority shall ensure that every oil tanker with a deadweight of less than 5000 tons complies with the provisions of subregulation (1) no later than the anniversary of the date of delivery of the ship in the year 2008.

**Extension of the operation of certain oil tankers.**

6.(1) Notwithstanding subregulations (1) and (2) of regulation 5, oil tankers of category 2 or category 3 which are equipped only with double bottoms or double sides not used for the transport of oil and extending for the whole length of the cargo tank, or with double-hulled spaces not used for the transport of oil and extending for the whole length of the cargo tank, but which do not meet the conditions for exemption from the provisions of paragraph 1(c) of revised regulation 13G of Annex I to MARPOL 73/78, may continue to be operated after the date referred to in regulation 5(2) of these Regulations, but not beyond the anniversary of the date of delivery of the ship in the year 2015 or the date on which the ship reaches the age of 25 years from its date of delivery, whichever is sooner.

(2) The competent authority may, until 21 October 2005, in cases where ice conditions require the use of an ice-strengthened vessel, allow ice-strengthened single-hull oil tankers, equipped with double bottoms not used for the transport of oil and extending over the entire length of the cargo tank, carrying heavy grades of oil, to enter or leave the Port if the heavy grades of oil are transported only in the vessel's central tanks.

**Compliance with the condition assessment scheme for category 2 and 3 ships.**

7.(1) The competent authority shall ensure that a single-hull oil tanker above 15 years of age, irrespective of its flag, is not allowed to enter or leave the Port or anchor in Gibraltar waters beyond the anniversary of the date of delivery of the ship, in 2005 for category 2 and category 3 ships, unless it complies with the condition assessment scheme referred to in subregulation (2).

(2) For the purposes of subregulation (1), the condition assessment scheme adopted by MEPC Resolution 94(46) of 27 April 2001, as amended, shall apply.

**Deadline for certain oil tankers.**

8.(1) No category 2 and category 3 oil tankers under the flag of a Member State shall be allowed to continue in operation in accordance with paragraph 5 of revised Regulation 13G of Annex I to MARPOL 73/78 after the anniversary of the date of delivery of the ship in 2015.

(2) Any other category 2 and category 3 oil tankers shall not be allowed to enter into the Port irrespective of the fact that they continue to operate under the flag of a third State in accordance with paragraph 5 of revised Regulation 13G of Annex I to MARPOL 73/78 after the anniversary of the date of delivery of the ship in 2015.

**Exemptions.**

9.(1) Notwithstanding regulations 5, 6, 7(1) and 8, the Captain of the Port may allow an individual oil tanker to enter or leave the Port or anchor in Gibraltar waters under any of the exceptional circumstances specified in subregulation (2) when—

- (a) an oil tanker is in difficulty and in search of a place of refuge; or
- (b) an unloaded oil tanker is proceeding to a port of repair.

(2) The exceptional circumstances referred to in subregulation (1) are as follows—

- (a) an act of war;
- (b) hostilities;
- (c) civil war;
- (d) insurrection;
- (e) an exceptional, inevitable and irresistible natural phenomenon;
- (f) unexpected damage to a vessel which requires repair and which renders it unsafe for the crew or for the environment for the vessel to continue its intended voyage on the high seas; or
- (g) after repair of damage to a vessel to which this regulation applies and which has been given refuge in Gibraltar waters or the Port when the Maritime Administrator is satisfied that it is once again safe for the vessel to continue on its journey.

(3) The Maritime Administrator shall, as soon as possible, cause the Commission to be informed of any application of the provisions of this regulation.

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**Information to IMO.**

10. The Maritime Administrator shall cause the IMO to be informed–

- (a) of any decision to deny entry to an oil tanker, pursuant to regulation 8, operating in accordance with the provisions of Paragraph 5 of revised Regulation 13G of Annex I of MARPOL 73/78 into the Port on the basis of paragraph 8(b) of revised Regulation 13G of Annex I of MARPOL 73/78; and
- (b) if he allows, suspends, withdraws or declines the operation of a category 1 or a category 2 oil tanker entitled to fly the Gibraltar flag, in accordance with regulation 7 of these Regulations, on the basis of paragraph 8(a) of revised Regulation 13G of Annex I of MARPOL 73/78.

**Repeal.**

11. The Gibraltar Merchant Shipping (Phasing-in of Double Hull Oil Tankers) Regulations, 2003 is repealed