

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE
No. 4152 of 5 March, 2015**

LEGAL NOTICE NO. 31 OF 2015.

GIBRALTAR MERCHANT SHIPPING (SAFETY, ETC.) ACT, 1993

**GIBRALTAR MERCHANT SHIPPING (SURVEY, CERTIFICATION
AND SAFETY) (AMENDMENT) REGULATIONS 2015**

In exercise of the powers conferred on it by sections 59, 63(1) and 118 of the Gibraltar Merchant Shipping (Safety, etc.) Act 1993 and all other enabling powers, and for the purpose of further implementing Regulation (EC) 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security in Gibraltar, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Survey, Certification and Safety) (Amendment) Regulations 2015 and come into operation on the day of publication.

Amendments to the Gibraltar Merchant Shipping (Survey, Certification and Safety) Regulations 2004.

2. The Gibraltar Merchant Shipping (Survey, Certification and Safety) Regulations 2004 are amended—

(a) in regulation 2—

(i) by inserting the following definition after the definition of “audit”—

““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;” and

- (ii) by substituting “BGTW” for “British territorial waters” in the definition of “Gibraltar waters”;
- (iii) by inserting the following definition after the definition of “port authority”–

““port security authority” means the authority designated under rule 7(1) of the Port (Enhancing Security) Rules 2008;”;
- (b) in regulation 49(1)(d), by deleting “, than 5 August 2002”;
- (c) in regulation 63–
 - (i) in subregulation (2), by substituting “port security authority” for “Captain of the Port”;
 - (ii) in subregulation (3) by substituting “port security officer” for “Captain of the port”;
- (d) by inserting the following regulation after regulation 63–

“Steps to be taken under the EC Regulation.

- 63A.(1) If, after receiving the information under regulation 63(3), the port security officer has clear grounds for believing that the ship is in non-compliance with the requirements of Chapter XI-2 or part A of the ISPS Code, that officer must attempt to establish communication with and between the ship and the Administration in order to rectify the non-compliance.
- (2) Where any communication under subregulation (1) does not result in rectification, or if the port security officer has clear grounds otherwise for believing that the ship is in non-compliance with the requirements of Chapter XI-2 or part A of the ISPS Code, he may deny the entry of the ship into the port.
- (3) Where the master of the ship withdraws his intention to enter into the port, this regulation shall not apply.

- (4) In this regulation “port security officer” means the officer appointed under rule 11 of the Port (Enhancing Security) Rules 2008.”;
- (e) in regulation 84(1)–
 - (i) by substituting “these Regulations, the ISPS Code” for “these Regulations” where they appear twice in subregulation (1); and
 - (ii) by inserting the following subregulation after subregulation (2)–
 - “(2A) If, after carrying out a verification under subregulation (1)(a) or an inspection under subregulation (2), the Administration has clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat, the Administration shall advise the port security authority–
 - (a) to expel the ship from the port; or
 - (b) to restrict the operation of the ship in such way that would reduce or eliminate such immediate threat to the security or safety of persons, or of ships or other property.”;
- (f) in regulation 89, by inserting the following subregulation after subregulation (6)–

“(7) In this regulation, “authorised officer” means a surveyor or an inspector authorised in writing by the Maritime Administrator to carry out a function under this Part.”.

Dated 5th March, 2015.

A J ISOLA,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations amend the Gibraltar Merchant Shipping (Survey, Certification and Safety) Regulations 2004 for the purpose of further implementing Regulation (EC) 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security in Gibraltar.

