

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**
No. 3939 of 5 July, 2012

LEGAL NOTICE NO. 97 OF 2012.

GIBRALTAR MERCHANT SHIPPING (SAFETY, ETC) ACT, 1993

**GIBRALTAR MERCHANT SHIPPING (COMMUNITY VESSEL
TRAFFIC MONITORING AND INFORMATION SYSTEM)
(AMENDMENT No. 2) REGULATIONS 2012**

In exercise of the powers conferred on it by regulation 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 Commission Directive 2011/15/EU of 23 February 2011 amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) (Amendment No. 2) Regulations 2012 and come into operation on the day of publication.

Amendments to the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004.

2. The Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004 (the Principal Regulations) are amended in accordance with the provisions of regulations 3 to 20.

Amendments to regulation 2.

3. The Principal Regulations are amended in regulation 2(1) by—

- (a) substituting the following definition for the definition “Administration”—

““Administration” means the person or organisation in the relevant flag State holding equivalent responsibilities of the Maritime Administration;”;

- (b) inserting the following definition after the definition of “BGTW”–
““Captain of the Port” shall have the meaning assigned to it by section 2(1) of the Port Act;”;
- (c) inserting the following definition after the definition of “Member State”-
““Minister” has the meaning assigned to it by the Act;”;
- (d) in the definition of “place of refuge”, by substituting “Port of Gibraltar” for “port of Gibraltar”; and
- (e) substituting “Captain of the Port” for “Maritime Administrator” in the definition of “relevant authority”.

Amendment to regulation 5.

4. Regulation 5 of the Principal Regulations is amended in its heading by substituting “port” for “the Port”.

Amendment to regulation 9.

5. Regulation 9 of the Principal Regulations is amended by substituting the following sub-regulation for sub-regulation (3)–

- “(3) If the Maritime Administration is of the opinion that a non-Gibraltar ship has failed substantially to comply with sub-regulation (2), he must report that failure to the Administration of the flag State of the ship in question.”.

Substitution of regulation 10.

6. The Principal Regulations are amended by substituting the following regulation for regulation 10–

“Requirements to use Automatic Identification Systems.

- 10.(1) Every passenger ship, irrespective of its size, and all other ships, other than passenger ships, of 300 gross tonnage and upwards engaged on international voyages, which call at the Port of Gibraltar shall be fitted with an automatic

identification system (AIS) in accordance with the technical and performance standards laid down in Chapter V of SOLAS.

- (2) Every passenger ship, irrespective of its size, and all other ships of 300 gross tonnage and upwards engaged on a domestic voyage shall be fitted with an automatic identification system (AIS) which complies with the technical and performance standards laid down in Chapter V of SOLAS.
- (3) The Minister, after consulting the Captain of the Port, may exempt—
 - (a) passenger ships below 15 metres in length or 300 gross tonnage engaged on domestic voyages from the application of the requirements concerning AIS laid down in this regulation; and
 - (b) ships, other than passenger ships, of 300 gross tonnage and upwards but less than 500 gross tonnage sailing exclusively within BGTW and outside routes normally used by other ships fitted with AIS, from the carriage requirements for AIS laid down in this regulation.”.

Amendment to regulation 10B.

7. Regulation 10B (2) of the Principal Regulations is amended by substituting “Maritime Administration” for “Administration”.

Substitution of regulation 11.

8. The Principal Regulations are amended by substituting the following regulation for regulation 11—

“Voyage Data Recorder (VDR) systems.

- 11.(1) Every passenger ship, irrespective of its size, and all other ships other than passenger ships, of 3 000 gross tonnage and upwards engaged on international voyages, which call at the Port of Gibraltar shall be fitted with a voyage data recorder (VDR) in accordance with the technical and performance standards laid down in Chapter V of SOLAS.

- (2) In case of cargo ships constructed before 1 July 2002, the VDR may be a simplified voyage data recorder (S-VDR), which shall comply with the technical and performance standards developed in accordance with Chapter V of SOLAS.
- (3) Every passenger ship, irrespective of its size, and ships other than passenger ships, of 3 000 gross tonnage and upwards and constructed on or after 1 July 2002 engaged on a domestic voyage shall be fitted with a voyage data recorder (VDR) which complies with the technical and performance standards developed in accordance with Chapter V of SOLAS.
- (4) Every cargo ship of 3 000 gross tonnage and upwards constructed before 1 July 2002 engaged on a domestic voyage shall be fitted with a voyage data recorder (VDR) or with a simplified voyage data recorder (S-VDR) which complies with the technical and performance standards developed in accordance with Chapter V of SOLAS.
- (5) The Maritime Administration may grant exemptions to—
 - (a) passenger ships only on voyages in sea areas other than those covered by Class A, as referred to in regulation 4 of the Gibraltar Merchant Shipping (Safety Rules and Standards for Passenger Ships on Domestic Voyages) Regulations 2011, from the requirement to be fitted with a VDR;
 - (b) ships, other than ro-ro passenger ships, constructed before 1 July 2002 from the requirement to be fitted with a VDR where it can be demonstrated that interfacing a VDR with the existing equipment on the ship is unreasonable and impracticable; and
 - (c) cargo ships constructed before 1 July 2002, engaged on international or domestic voyages, from the requirement to be fitted with an S-VDR if such ships are to be taken permanently out of service within two years of the implementation date specified in Chapter V of SOLAS.
- (6) The Maritime Administration must not grant an exemption to ships referred to in sub-regulation (5) unless he has consulted

the Captain of the Port in the case of domestic voyages of the ship concerned.”.

Amendments to regulation 13.

9. Regulation 13 of the Principal Regulations is amended in sub-regulations (1), (2)(b) and (d), (7), (8) and (9) by substituting “Maritime Administration” for “Administration” on the six occasions where it appears.

Amendment to regulation 14.

10. Regulation 14(1)(b) of the Principal Regulations is amended by substituting “MSC.286 (86)” for “MSC. 150(77)” in sub-regulation (1)(b).

Amendments to regulation 15.

11. Regulation 15 of the Principal Regulations is amended in sub-regulations (8)(a)(i) by inserting “and the Captain of the Port” after “Maritime Administration”.

Amendments to regulation 16A.

12. Regulation 16A of the Principal Regulations is amended in sub-regulations (1) and (2) by substituting “Captain of the Port” for “Administration” on both occasions it appears.

Amendments to regulation 17.

13. Regulation 17 of the Principal Regulations is amended—

- (a) by inserting the following sub-regulation after sub-regulation (3)—

“(3A) In the case of a ship which is towed under a towage or salvage agreement, the measures taken by the port authority under paragraphs (a) and (d) of sub-regulation (3) may also be addressed to the assistance, salvage and towage companies involved.”; and

- (b) in sub-regulation (5) by substituting “Maritime Administration” for “Administration”.

Amendments to regulation 18.

14. Regulation 18(3) of the Principal Regulations is amended by substituting “Maritime Administration or the Administration” for “Administration”.

Amendments to regulation 21.

15. Regulation 21 of the Principal Regulations is amended in sub-regulation (1), by substituting the following paragraph for paragraph (c)–

“(c) has been refused access to the Port of Gibraltar or has been the subject of a report or notification by the Maritime Administration in accordance with the Gibraltar Merchant Shipping (Port State Control) Regulations, 2011;”.

Amendments to regulation 22A.

16. Regulation 22A of the Principal Regulations is amended in sub-regulation (2)(c) by substituting “Captain of the Port” for “Administration”.

Amendments to regulation 23.

17. Regulation 23 of the Principal Regulations is amended–

- (a) in sub-regulation (3), by deleting “10(4), 11(6)” after “9(2)” in line 2; and
- (b) in sub-regulation (4) by substituting “10(1), 10(2)” for “10(2), 10(3), 10(4)” after “with regulation” in line 1.

Amendments to regulation 27.

18. Regulation 27 of the Principal Regulations is amended in sub-regulations (1), (2), (3) and (5), by substituting “Maritime Administration” for “Administration” on the four occasions where it appears.

Amendments to regulation 28.

19. Regulation 28 of the Principal Regulations is amended in sub-regulations (1) and (2), by substituting “Maritime Administration” for “Administration” on both occasions it appears.

Amendment to Schedule 1.

20. Schedule 1 to the Principal Regulations is amended by substituting the following Part for Part 3—

**“Part 3
Fishing Vessels**

Fishing vessels with a length of more than 15 metres overall shall be fitted with an automatic identification system (AIS) as provided for in regulation 10A according to the following timetable—

- (a) fishing vessels of overall length 24 metres and upwards but less than 45 metres: not later than 5 July 2012;
- (b) fishing vessels of overall length 18 metres and upwards but less than 24 metres: not later than 31 May 2013;
- (c) fishing vessels of overall length exceeding 15 metres but less than 18 metres: not later than 31 May 2014; and
- (d) new-built fishing vessels of overall length exceeding 15 metres are subject to the carrying requirement laid down in regulation 10A as from 30 November 2010.”.

Dated 5th July, 2012.

N COSTA,
For the Government

EXPLANATORY MEMORANDUM

These Regulations transpose into the law of Gibraltar Commission Directive 2011/15/EU of 23 February 2011 amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system by way of amending the Gibraltar Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Regulations 2004.

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