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No.: **RSR 09-2014**

Date: 01/07/2014

Journal No.: 2014/12901

Supersedes:

Reference to:

The Circular should be entered into a special diagram or as appropriate in the latest editions of relevant NMA publications and kept until the next editions.

Regulations of 1 July 2014 No. 945 on the carriage of cargoes on Norwegian ships and barges

The Norwegian Maritime Authority (NMA) has laid down new Regulations on the carriage of cargoes on Norwegian ships and barges. At the time of entry into force of these Regulations, the Regulations of 29 June 2006 No. 785 concerning the carriage of cargoes on cargo ships and barges (henceforth Regulations 2006/785) are repealed.

General information about the contents of the Regulations

The Regulations continue the implementation of SOLAS chapter VI into Norwegian legislation. The Regulations hence contain both the operational requirements and the construction requirements pursuant to SOLAS chapter VI. Construction requirements pursuant to other SOLAS chapters, primarily chapter II-1, are not regulated in these Regulations.

Provisions laid down in addition to the general reference to SOLAS chapter VI have been assembled in one section. These provisions are a continuation of current law.

Consultation

The proposed new Regulations on the carriage of cargoes were circulated for review from 11 March 2014 to 31 May 2014. A total of 14 consultative statements came in, whereof 12 did not include comments to the proposal.

The Norwegian Coastal Administration comments that it would have been more advantageous with one set of regulations referencing SOLAS, instead of one set of regulations for each SOLAS chapter. The NMA has considered this option, but found it to be impractical. Since each set of regulations also has certain additional rules that need to be included, the regulations would have become complex and difficult to navigate, which is contradictory to the goal of simpler and more readily available legislation.

The joint secretariat of the seamen's organisations makes a comment to the exemption provision of section 4, where it is stipulated that it must be "established" that the exemption is justifiable in terms of safety. In their opinion the wording should read "established and documented". The joint secretariat of the seamen's organisations emphasize that it must be

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the applicant him/herself who needs to document that the exemption is justifiable, and that this must then be verified by the supervising authority.

The NMA assumes that the term "establish" in this connection implies a requirement for necessary documentation. The suggestion from the joint secretariat of the seamen's organisations would possibly allow for an anti-ethical interpretation; in cases where the phrase "and documented" has been forgotten, it could be claimed that the requirement for documentation is not present. This will not be practical.

It is otherwise referred to the comment to the exemption provision below.

Comments to the individual sections

To section 1 Scope of application

The Regulations apply to the carriage of cargoes on Norwegian ships and barges. The NMA presupposes that the term "carriage of cargoes" also covers loading and unloading.

Barges are covered by the term "ship", and will therefore be covered regardless of the specification in the provision. Of pedagogical reasons we have nevertheless mentioned barges specifically in the provision for scope of application in order to avoid misunderstandings, since barges are not covered by the scope of application of SOLAS chapter VI.

Passenger ships are currently not included in the scope of application of Regulations 2006/785. Passenger ships are, however, covered by the scope of application of SOLAS chapter VI, and when implementing these rules such ships will therefore also have to be included. In section 2 the scope of application of SOLAS chapter VI has nonetheless been limited to apply to passenger ships engaged on foreign voyages only, in line with current law.

The limitation of the scope of application also implies that fishing vessels and mobile offshore units are not included. This is also in line with current law.

To section 2 Requirements for the carriage of cargoes

This section contains the formal implementation of SOLAS VI along with the other international Codes which are being continued. For the sake of clarity, the NMA would like to underline that the international rules will only be applicable to the ships operating as described in the rules.

In current legislation, as regards ships engaged on domestic voyages, SOLAS chapter VI has only been implemented for cargo ships and barges. These Regulations are not intended to change this practice.

The first paragraph therefore limits the implementation of SOLAS chapter VI and the various Codes to ships engaged on foreign voyages.

In *the second paragraph* the scope of application for the same rules are expanded to include cargo ships and barges engaged on domestic voyages as well, in accordance with current law.

Subparagraph b continues the incorporation of the Codes mentioned in Regulations 2006/785 section 5, yet with the BC Code¹ being replaced by the IMSBC Code², which has succeeded the BC Code. The reference to the CSS Code subchapter 1.9, cf. Regulations 2006/785 section 5 subparagraph c), is considered maintained by the equivalent reference in SOLAS chapter VI regulation 2.1, and has therefore not been continued in the Regulations.

¹ Code of Safe Practice for Solid Bulk Cargoes

² International Maritime Solid Bulk Cargoes Code

The third paragraph expands the scope of application of the Grain Code. The provision continues section 14 (1) c) of the Safety Measure Regulations³. As part of the review of the body of legislation, some provisions of the Safety Measure Regulations have been moved to other regulations where they, in our opinion, more naturally belong.

To section 3 Additional provisions on cargo securing manual, booklet for stability and strength and loading and unloading plan for cargo ships and barges

The first paragraph contains supplementary provisions to SOLAS regulation VI/5.6 and VI/7, and is a continuation of provisions which today are found in section 8 of Regulations 2006/785.

Regulations 2006/785 section 8 also contains a provision on the keeping of a cargo loading and unloading plan on board and at the terminal, and subsequent audits thereof, for a period of 6 months. This provision has not been continued in the new Regulations, since it is also stipulated by section 9 (3) of the Regulations of 29 August 2003 No. 1114 concerning the safe loading and unloading of bulk carriers.

The amount of documents required to be kept on board has been reduced compared to section 9 of Regulations 2006/785. Provisions requiring that special Codes and Convention chapter are to be kept on board, have been removed. It is seen as the company's responsibility to facilitate compliance of the sets of rules, and to decide the most practical way of making the sets of rules available to the persons working on board.

In the second paragraph the Regulations exempt ships engaged on domestic voyages from the requirements of SOLAS regulation VI/7 related to booklet for stability and strength and loading and unloading plan. This is also a continuation of current law, cf. section 8 of Regulations 2006/785.

To section 4 Exemptions

The first paragraph allows for the possibility to approve other solutions than those that explicitly follow from the wording of the Regulations and from the international regulations given status as regulation. The provision does not relax the requirements, but allows for the requirements to be satisfied in other ways that stipulated by the rules. This way, the door is kept open to e.g. the development of new solutions, which were not known at the time when the new Regulations were laid down. The provision is in line with current practice, and implements SOLAS regulation I/5 subparagraph a within the scope of application of the Regulations.

The wording of section 4 second paragraph gives the NMA the statutory authority to make decisions on exemptions from the requirements of the Regulations. An exemption requires that the company submits a written application containing information and justification, which the NMA will then assess, taking into account the considerations and interests that the applicable requirements are meant to look after. Whether a decision shall be made exempting the company from certain commitments, is decided following a concrete assessment. Companies applying for exemptions are not entitled to have these granted even if the terms of the exemption provision are satisfied. The starting point is that the requirements of the Regulations shall be met. Only in extraordinary cases, where warranted by valid grounds, will there be an opening for making a decision to exempt.

The conditions to be satisfied in order for the NMA to make a decision to exempt are stipulated by section 3 second paragraph subparagraphs a and b, respectively. That the requirement is not essential means that the requirement concerned is considered to be less essential when compared to the extraordinary reasons forming the basis for an exemption. An exemption pursuant to subparagraph a may be granted only if a lapse of the requirement

³ Regulations of 15 June 1987 No. 507 concerning safety measures, etc. on passenger ships, cargo ships and lighters

concerned nevertheless provides a level of safety which is justifiable. Subparagraph b requires compensating measures which are different from the prescriptive requirements of the Regulations, and where it is assumed that such compensating measures provide a level of safety equivalent to the level achieved by the regulatory requirement.

To section 5 Entry into force

The Regulations enter into force on 15 September 2014, as part of a coordinated entry into force of several new regulations presently being laid down.

Economic and administrative consequences

The economic and administrative consequences of the proposal are limited. The proposal contains no amendments expanding the duties of company or crew, but removes certain requirements for documentation. Furthermore, no expanded supervisory or control activities are imposed on the authorities.

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Acting Director General of Shipping and Navigation

Linda Bruås
Acting Head of Department

Attachment: Regulations of 1 July 2014 No. 945 on the carriage of cargoes on Norwegian ships and barges

Copy to: Ministry of Trade, Industry and Fisheries

Regulations of 1 July 2014 No. 945 on the carriage of cargoes on Norwegian ships and barges

Legal basis: Laid down by the Norwegian Maritime Authority on 1 July 2014 under the Act of 16 February 2009 No. 9 relating to Ship Safety and Security (Ship Safety and Security Act) sections 6, 9, 11, 12, 13, 19, 21, 22 and 29, cf. Formal Delegation of 16 February 2007 No. 171 and Formal Delegation of 31 May 2007 No. 590.

Section 1

Scope of application

These Regulations apply to Norwegian ships and barges carrying cargoes, except liquid substances or gases in bulk.

Section 2

Requirements for the carriage of cargoes

For ships engaged on foreign voyages the following shall apply as regulation:

- a) the International Convention for the Safety of Life at Sea, 1974 (SOLAS) consolidated edition 2009, chapter VI, as amended by MSC.269(85), MSC.282(86) and MSC.325(90);
- b) the International Maritime Solid Bulk Cargoes (IMSBC) Code, cf. MSC.268(85), as amended by MSC.318(89); and;
- c) the International Code for the Safe Carriage of Grain in Bulk (Grain Code), cf. MSC.23(59).

The first paragraph applies correspondingly for cargo ships and barges engaged on domestic voyages.

The Grain Code shall also apply as regulation for ships carrying dry bulk cargo and having a natural angle of repose of less than 35°.

Section 3

Additional provisions on cargo securing manual, booklet for stability and strength and loading and unloading plan for cargo ships and barges

Cargo ships and barges shall have on board a cargo securing manual in accordance with SOLAS regulation VI/5.6.

Ships engaged on domestic voyages and barges need not comply with the requirements of SOLAS regulation VI/7 concerning booklet for stability and strength, and loading and unloading plan.

Section 4

Exemptions

The Norwegian Maritime Authority may upon written application permit other solutions than those required by these Regulations when it is established that such solutions are equivalent to the requirements of the Regulations.

The Norwegian Maritime Authority may exempt ships engaged on domestic voyages, barges engaged on domestic and foreign voyages and ships which in exceptional circumstances are required to undertake a single international voyage, from one or more of the requirements of these Regulations, when the company applies for such exemption in writing and one of the following requirements is met:

- a) it is established that the requirement is not essential and that the exemption is justifiable in terms of safety;
- b) it is established that compensating measures will maintain the same level of safety as the requirement of these Regulations.

Section 5

Entry into force

These Regulations enter into force on 15 September 2014.

As from the same date, the Regulation of 29 June 2006 No. 785 concerning the carriage of cargoes on cargo ships and barges are repealed.