

Circular - Series R

Circular Series R (Regulations) supersedes previous Series F. In the new Series R, relevant legal amendments and amendments to conventions are also published.

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No.: RSR 11-2014

Date: 01/07/2014

Journal No.: 2014/13382

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. 956 on additional safety measures for bulk carriers

The Norwegian Maritime Authority (NMA) has laid down new Regulations on additional safety measures for bulk carriers. These Regulations enter into force on 15 September 2014.

The current applicable provision implementing SOLAS chapter XII into Norwegian legislation, found in section 5 of the Construction Regulations¹, will be repealed along with the remaining provisions of those Regulations when the new Regulations on the construction of ships, which are being laid down in parallel, enter into force.

Overview

The Regulations implement SOLAS² chapter XII - Additional safety measures for bulk carriers (SOLAS XII). Beyond the provision providing the legal basis for equivalent solutions and exemptions, no supplementary provisions have been laid down.

Pursuant to current law, the requirements that follow from SOLAS XII have only been applicable to ships engaged on foreign voyages, in line with the scope of application of SOLAS. This is continued in the new Regulations.

The entire SOLAS chapter XII is being implemented by these Regulations, and the Regulations therefore contain both operational requirements as well as certain construction requirements. Construction requirements pursuant to other SOLAS chapters, primarily chapter II-1, have not been included in these Regulations.

The consultation

The proposed new Regulations on additional safety measures for bulk carriers were circulated for review from 12 March 2014 to 31 May 2014. A total of 7 consultative statements came in, whereof 5 did not include comments to the proposal.

¹ Regulations of 15 September 1992 No. 695 concerning the construction of passenger ships, cargo ships and barges

² The International Convention for the Safety of Life at Sea 1974

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, it should instead say "established and documented". The joint secretariat of the seamen's organisations emphasize that it must be the applicant him/herself who needs to document that the exemption is justifiable, and that this must then be verified by the supervising authority. This is discussed in more detail under point 4 "To section 4 Exemptions" below.

The Norwegian Coastal Administration expresses that when assessing whether to grant exemption for a single international voyage, the domestic trade area for which the ship is certified should be taken into account, along with the foreign trade area within which the international voyage will take place. The NMA agrees that these are relevant factors, and they will be part of the NMA's concrete assessment of the application for exemption.

More information about the content of the Regulations

Compared to the draft that was circulated for review, a minor amendment has been made in that the provision regarding equivalent solutions has been included as the first paragraph of the provision on exemption.

The individual sections are commented below.

To section 1 Scope of application

The scope of application is identical to the scope of application stipulated in SOLAS regulation XII/2, when compared with the definition of bulk carriers in regulation XII/1.1. The IMO has in Resolution MSC.277(85) provided a more detailed interpretation of this definition, which the member States are encouraged to employ.

To section 2 Requirements for additional safety measures for bulk carriers

The provision incorporates SOLAS XII for ships covered by the scope of application of the Regulations.

To section 3 Exemptions

The first and second paragraphs implement SOLAS regulations I/5(a) and I/4(a), respectively, for ships covered by the scope of application of the Regulations.

SOLAS regulations I/4 and I/5 both belong to the general provisions of SOLAS chapter I Part A. Even though these rules apply across the remaining individual chapters in SOLAS, they have as yet not been implemented in general into Norwegian legislation by other Regulations, and are therefore being implemented into individual Regulations where they naturally belong.

The first paragraph allows for the possibility to approve other solutions than those that explicitly follow from the wording of SOLAS chapter XII. The provision does not relax the requirements, but allows for the requirements to be satisfied in other ways than as 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 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 strict, and 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 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 4 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 Regulations continue current law. They do not impose any new duties on the industry or the government, and thus do not result in any increased costs for the industry or increased administrative burdens for the government.

Bjørn Pedersen
Acting Director General of Shipping and Navigation

Linda Bruås
Acting Head of Department

Attachment: Regulations of 1 July 2014 No. 956 on additional safety measures for bulk carriers

Copy to: Ministry of Trade, Industry and Fisheries

Regulations of 1 July 2014 No. 956 on additional safety measures for bulk carriers

Legal basis: Laid down by the Norwegian Maritime Authority on 1 July 2014 under the Act of 16 February 2007 No. 9 relating to Ship Safety and Security (Ship Safety and Security Act) sections 6, 9, 11, 12 and 43, 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 cargo ships of 500 gross tonnage and upwards engaged on foreign voyages, which primarily carry dry cargo in bulk.

Section 2

Requirements for additional safety measures for bulk carriers

The International Convention for the Safety of Life at Sea, 1974 (SOLAS) consolidated edition 2009, chapter XII, shall apply as regulation.

Section 3

Exemptions

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

The Norwegian Maritime Authority may exempt 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 4

Entry into force

These Regulations enter into force on 15 September 2014.