



Maritime and Coastguard Agency

MGN 402 (M + F)

Oil Pollution : Liability and Compulsory Insurance for Bunker Oil

Notice to all Shipowners, Operators, Managers and Masters of merchant vessels over 1,000 GT

This notice replaces MGN 376 (M)

PLEASE NOTE:-

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

Summary

This Marine Guidance Note:

1. Informs shipowners and masters of the requirement to maintain compulsory insurance against liability for bunker oil pollution damage
2. Informs shipowners of the limits of liability under the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001.

1 Introduction / Background

1.1 The International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 was implemented in the UK by the Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006. These Regulations amend Chapter 3 of Part 6 of the Merchant Shipping Act 1995.

1.2 The Bunkers Convention establishes strict liability on the shipowner for preventative measures and pollution damage arising from all types of oil used in the operation or propulsion of ships and requires all registered owners of vessels over 1,000 gross tonnage (gt) entering or leaving a UK port or terminal to maintain insurance, certified by State Party to the Convention. The Bunkers Convention also introduces a provision that entitles claimants to claim directly from the owner's insurer or enter into litigation proceedings against both the owner and or insurer.

1.3 The aim of the Bunkers Convention is to improve the process by which claimants are able to receive compensation as a result of ship sourced pollution from bunker fuel oils. The right to seek compensation applies equally to persons responding to a potential or actual bunker pollution incident or as a result of damage caused by bunker oil.

2 Shipowner Liability

2.1 The UK has applied the liability limits established by the International Convention on Limitation of Liability for Maritime Claims (LLMC Convention) 1976, as amended by its Protocol of 1996.

2.2 The 1996 LLMC Protocol establishes the limit of liability for ships according to gross tonnage (or in the case of passengers, a calculation based on the number of passengers the ship is licensed to carry). For ships not exceeding 2,000gt the shipowner's liability is 1 million SDR (Special Drawing Rights). For ships greater than 2,000gt, the following method is used to calculate limits:

- a) For each ton from 2,001 to 30,000 tons, 400 SDR
- b) For each ton from 30,001 to 70,000 tons, 300 SDR
- c) For each ton in excess of 70,000 tons, 200 SDR

3 Insurance and State Certification

3.1 The Bunkers Convention, 2001 provides that, the registered owner of a ship over 1,000gt registered in a State Party and owners of such ships trading into a State Party must maintain insurance (or other financial security) in respect of the shipowner's liability arising under the Convention. Insurance must also be in place in respect of any ship, wherever registered, entering or leaving a port or terminal in the territory of a State Party. The insurance must be verified by a certificate issued by a State Party and ships must carry on board such a certificate confirming that the ship is so insured.

3.2 These requirements are implemented by sections 17 and 18 of the Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006, which amend sections 163 and 164 of the Merchant Shipping Act 1995. The Regulations can be viewed in full here <http://www.opsi.gov.uk/si/si2006/20061244.htm>

3.3 Certificates will be issued according to the commencement and expiry date stipulated on the blue card or financial guarantee, but in no case will UK certificates be issued for periods greater than 12 months. Enquiries and requests for application forms should be addressed to:

**CLC Branch
Maritime and Coastguard Agency
105 Commercial Road
Southampton SO15 1EG
United Kingdom**

4 Penalties

4.1 If a ship enters or leaves (or attempts to enter or leave) a UK port or terminal and does not carry a State Certificate in respect of insurance under the Bunkers Convention, the master or the owner shall be liable on summary conviction to a fine not exceeding the statutory maximum (£5,000 at time of issue of this Note). If a ship fails to carry, or the Master of the Ship fails to produce, a State Certificate the Master shall be liable on summary conviction to a fine not exceeding level five on the standard scale (currently £5,000). If a ship which does not carry a State Certificate in respect of insurance under the Bunkers Convention attempts to leave a UK port, that ship may be detained.

4.2 If a ship which has been detained (or in respect of which a notice of or order for detention has been served on the Master) proceeds to leave a port or terminal before the detention has been lifted, the Master of the ship will be liable on summary conviction to a fine of up to £50,000.

5 Definitions

5.1 "Bunker oil" is defined as any hydrocarbon mineral oil including lubricating oil which is carried by a ship and used or intended to be used for the operation or propulsion of that ship and any residues of such oil (section 170(1) of the Merchant Shipping Act 1995 as amended by regulation 23(2)(a)) by the Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006.

5.2 "Ship" means any seagoing vessel and seaborne craft, of any type whatsoever.

5.3 "Gross tonnage" means gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on tonnage Measurement of Ships, 1969.

More Information

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File Ref: CG 024/001/0093 (CG24/1/93)

Published: October 2009
Please note that all addresses and
telephone numbers are correct at time of publishing



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Printed on material containing minimum 75% post-consumer waste paper

*An executive agency of the
Department for
Transport*