

Merchant Shipping (Dangerous Goods) Regulation 2007

STATUTORY INSTRUMENT

No. 9 of 2007

Merchant Shipping (Dangerous Goods) Regulation 2007

Being a Regulation,

MADE by the Head of State, acting with and in accordance with, the advice of the National Executive Council under the Merchant Shipping Act (Chapter 242).

1. Interpretation.

In this Regulation the following definitions apply—

"Act" means the Merchant Shipping Act (Chapter 242);

"Authority" means the National Maritime Safety Authority established by the National Maritime Safety Authority Act 2003;

"adjacent country", is a neighbouring country within the Pacific Region where the EEZ of the neighbouring country meets that of Papua New Guinea;

"Classification 1 Dangerous Goods Voyage" means a domestic voyage or voyage between adjacent countries within the Pacific Region where the total gross weight of packaged dangerous goods on board exceeds 5000 kg and/or the total gross weight of flammable liquids or gases exceeds 2000 kg or an international voyage where any dangerous goods are carried;

"Classification 2 Dangerous Goods Voyage" means a domestic voyage or voyage between adjacent countries within the Pacific Region where the total gross weight of packaged dangerous goods on board does not exceed 5000 kg and the total gross weight of flammable liquids or gasses does not exceed 2000 kg;

"container" means a freight unit designed for repeated use by different modes of transport, and having fittings to facilitate ready handling by equipment such as forklifts and cranes. It therefore includes ISO containers, in addition to locally manufactured units of smaller size;

"container owner" means the person or organisation who owns, leases, hires, or otherwise, and has operational management control over the container;

"dangerous goods" means any goods listed and classified according to their hazards in the International Maritime Dangerous Goods Code, published by the International Maritime Organisation, and any other goods declared as hazardous by the Authority. It also includes empty receptacles that have been used for the carriage of dangerous goods, unless the receptacles have been cleaned, subsequently dried, and where appropriate, gas freed;

"deck cargo" means cargo, including livestock, carried on the weather deck of any ship;

"IMDG Code" means the current and corrected edition of the International Maritime Dangerous Goods, Code published by IMO;

"ISO means the International Standards Organization;

"owner", in relation to a ship means the registered owner of the ship, or in the absence of a registered owner, the person who is for the time being responsible for the management of the ship;

"package" means a package that is not a container. This includes for example, palletised cargo, drums, and loose cartons. For the purposes of this Regulation package also includes Intermediate Bulk Containers based on pallet systems;

"Papua New Guinea ship" means any ship registered in Papua New Guinea or entitled to be registered in Papua New Guinea operated from a base within Papua New Guinea;

"Papua New Guinea waters" means the territorial waters of Papua New Guinea, including all rivers and inland waters ;

"passenger" means any person who is not a member of the crew of the ship, is not involved in the business of the ship, and has paid or is deemed to have paid a fare or consideration for carriage on the ship;

"ship" means any ship, barge, lighter, or other cargo carrying system used for transportation on the water;

"skipper" means any person by whom or on whose behalf the goods are delivered to the carrier for transport;

"Type A Dangerous Goods Shipments", include those:

- (a) of an international nature other than between adjacent countries within the Pacific Region;
or
- (b) consolidated with other cargo in a single carriage unit; or
- (c) that exceed 1000 kg gross weight in a single consignment;

"Type B Dangerous Goods Shipments", include all other Dangerous Goods shipments;

"warship" means any ship of the defence force or armed forces, including fisheries patrol vessels.

2. Application.

This Regulation applies to—

- (a) all Papua New Guinea ships, not being ships of traditional construction or warships, regardless of type or size, carrying dangerous goods other than liquid dangerous goods in bulk and carried under the provisions of the Bulk Code;

- (b) foreign registered ships carrying dangerous goods in any port in Papua New Guinea or in Papua New Guinea waters that intend to load or unload cargo or fuel or embark or disembark passengers at a Papua New Guinea port;
- (c) warships and Government-owned ships carrying dangerous goods as commercial cargo;
- (d) all persons that pack, ship, produce documentation, receive for carriage, store, handle, or carry any dangerous goods that are, have been, or are intended to be transported by sea.

3. Carriage of Dangerous Goods.

(1) Except as otherwise provided in this Regulation, the IMDG Code shall be incorporated into the laws of, and have the force of law in, Papua New Guinea.

(2) Except as otherwise provided in this Regulation, no person may offer or accept dangerous goods for transport unless those goods are properly classified, packaged, marked, labelled, placarded, described and certified on a transport document, and are otherwise in a condition for transport as required by this Regulation.

(3) The Authority may issue permits allowing the carriage of dangerous goods for wholly domestic and adjacent country voyages under variations to this Regulation, but in every case:

(a) the permit shall be signed by the Authority; and

(b) the permit shall only be issued on the basis of a formal risk assessment that confirms that safety of life, property and the environment is not unduly threatened through activities permitted in the variation; and

(c) the risk assessment required by Regulation 3(b) shall take into account the design and construction of the vessel, length of voyage, nature of the service, the nature of other cargo carried and the number of passengers permitted to be carried.

(4) (a) at least one current and corrected copy of the IMDG Code shall be held by the Authority.

(b) one current and corrected copy of the IMDG Code shall be available at the premises of the Authority, throughout all hours when such premises are open, for reference by any person with a genuine interest in the shipment of dangerous goods.

(c) the Authority shall ensure the public availability, throughout all hours when such premises are open, of such local rules, advice, and information as is necessary to assist persons comply with this Regulation.

(d) the Authority may make such local rules and issue such advisory notices as may assist the application of the IMDG Code and this Regulation on Papua New Guinea ships and on foreign ships in Papua New Guinea waters.

(e) each ship shall have on board either simplified stowage or segregation information for the dangerous goods carried on board or a copy of the IMDG Code.

(5) No person shall cause or allow any dangerous goods to be offered for shipment or taken on board any ship unless:

(a) the shipper has supplied the owner, agent or master of the ship with a signed declaration that:

(i) for Type A Dangerous Goods Shipments, is in full compliance with the declaration required by the IMDG Code for shipments; or

(ii) for Type B Dangerous Goods Shipments, clearly identifies the nature, quantity and packaging of the dangerous good(s); and

(b) the goods are packed:

(i) in accordance with the packaging requirements of the IMDG Code for Type A Dangerous Goods Shipments; or

(ii) in a manner as to preclude leakage and withstand the risks of handling and transport by sea for Type B Dangerous Goods Shipments; and

(c) the packages are marked and labelled:

(i) in accordance with the classification, marking and labelling requirements of the IMDG Code for Type A Dangerous Goods Shipments; or

(ii) in a manner as to clearly and immediately identify the contents or former contents of the package to any person involved in the shipping, handling, storage or carriage of the package for Type B Dangerous Goods Shipments.

(6) The master, owner, or agent of any ship shall not knowingly cause or allow to be accepted for shipment or taken on board any ship any container or package which is suspected to contain undeclared or incorrectly declared dangerous goods, or for which a correctly completed declaration is not supplied in compliance with subsection 5 (a) of this Regulation.

(7) The master, owner, or agent of any ship shall not knowingly cause or allow to be accepted for shipment or taken on board any ship any container or package of dangerous goods which:

(a) is not packed in the manner required by sub-section 5(b) of this Regulation; or

(b) is not correctly or adequately labelled and identified in the manner required by sub-section 5(c) of this Regulation; or

(c) is damaged such as to be of reduced effectiveness in preventing leakage or spillage; or

(d) indicates evidence of leakage or spillage within a period of not less than 2 hours from the time of filling; and

(e) is not visually inspected at the time of acceptance and loading to ensure compliance with Subsection 5.

(8) The master of any ship shall not allow to be taken on board any dangerous goods for which copies of the dangerous goods declarations and a dangerous goods list or manifest as prescribed in the IMDG code or equivalent is not supplied in sufficient time, prior to any loading commencing, for the master to determine appropriate stowage positions for all dangerous goods to be loaded.

(9) Any person who fails to comply with the provisions of Subsections (5), (6), (7) and (8) of this Regulation commits an offence and upon conviction shall be liable to a fine not exceeding K10,000 and/or a term of imprisonment not exceeding 12 months.

(10) The master of any ship and/or any officer of the Authority shall be entitled to open any container or package, including sealed containers and packages, containing dangerous goods or suspected to contain undeclared or incorrectly declared dangerous goods for the purpose of verifying the nature, packaging and labelling of any dangerous goods.

(11) Dangerous goods carried on Classification 1 Dangerous Goods Voyages shall be stowed and segregated in suitable cargo spaces on board the carrying vessel in full compliance with the requirements of the IMDG Code.

(12) Dangerous Goods carried on Classification 2 Dangerous Goods Voyages shall be stowed and segregated so that:

(a) they are suitably stowed and secured so as to withstand the sea passage without damage or loss; and

(b) the segregation distances between cargoes of different classes are either

(i) in compliance with those listed in the table below; or:

	Explosives	Gases	Flammable Liquids
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Explosives			
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Gases	4		
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Flammable	4	2 or 3.	See
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Liquids		note below	
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Corrosives	4	1	1
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Table Value Segregation Required

1 solid barrier sufficient to prevent the contents mixing with each other or more than 3 metres apart with no barrier

2 separated by a solid barrier sufficient to prevent the contents mixing with each other or separated by 4 metres

if no barrier. This option is only available where the quantity of either cargo does not exceed 4000 litres or kilograms.

3 separated by a solid part of the ship, such as bulkhead or deck or separated by 6 metres if no barrier.

4 separated by 20 metres.

(ii) where the dangerous goods are other than those specified in the Table, then in accordance with Segregation Table 1.2.1.16 of the IMDG Code; and

(c) flammable liquids and gases are stowed on deck except where:

(i) the Authority issues a permit allowing under deck stowage following a formal risk assessment that establishes such stowage to be a safer option than on-deck; and

(ii) the arrangements for carriage are at least equivalent to the requirements detailed in Subsection (d) of this Regulation; and

(iii) the cargo is carried in containers approved by the Authority for the carriage of flammable cargoes below decks and that have also been inspected thoroughly prior to loading for any leakage; and

(iv) the risk assessment required by sub-section 12(c)(i) shall take into account the design and construction of the vessel, length of voyage, nature of the service and the number of passengers permitted to be carried;

(d) any cargo of a flammable nature carried under deck in accordance with the

(e) provision of sub-section 12 (c) must only be carried in a cargo space;

(i) fitted with an operating flammable vapour detector appropriate to the cargo carried and capable of sounding an audible alarm in the wheelhouse and accommodation of the ship; and

(ii) continuously ventilated from the time of loading to the time of discharge; and

(iii) fitted with flame screens at the opening to the deck; and

(iv) where all electrical circuits within or passing through the space are isolated; and

(v) where the suitability of the space is approved by the Authority on each occasion prior to dangerous goods of a flammable nature being loaded in the space.

(13) Explosives shall not be carried on board any ship unless:

(a) they are restricted to IMDG Code Class 1.4, compatibility group S only, if carried on board a passenger ship; and

(b) they are carried in accordance with the full provisions of the IMDG Code if carried on a Classification 1 Dangerous Goods Voyage; and

(c) they are stowed on deck in a magazine meeting the specifications of the IMDG code if carried on a Classification 2 Dangerous Goods Voyage.

(14) (a) the Owner and master of any ship carrying dangerous cargo shall ensure that areas where flame, cigarettes or discarded cigarettes could possibly ignite vapour from flammable liquids or gas carried as cargo, are designated and clearly marked as 'No Smoking' areas;

(b) the Master shall take all reasonable measures to ensure that smoking does not occur in areas designated to be 'No Smoking';

(c) the Master shall ensure that work activities using naked flame or that may cause sparks are not permitted or conducted in proximity to dangerous goods of a flammable nature.

(15) The Master, owner or agent-of ship on which passengers are carried:

(a) shall require all passengers to declare whether dangerous goods are carried in their personal belongings or luggage; and

(b) shall stow any dangerous goods declared by passengers in a designated dangerous goods area on board, ensuring safe segregation of hazardous classes except where the quantities of dangerous goods are minimal; and

(c) may search the luggage and personal belongings of passengers to determine whether all dangerous goods have been declared.

(16) The Master of any vessel carrying passengers when also carrying dangerous goods shall ensure that:

(a) passenger access to areas containing dangerous goods is restricted, except as allowed under 16(d) of this Regulation; and

(b) spaces to which passengers are not permitted access are clearly identified and fitted with appropriate signage and where possible, physical barriers to entry; and

(c) effective means exist for the dispersal of fumes from dangerous goods; And

(d) embarking/disembarking of passengers is arranged and supervised to minimise the risk to passengers or the ship in relation to the dangerous goods cargo.

(17) (a) no owner or master shall permit dangerous goods to be loaded or carried on board a ship unless information providing emergency response information is available on board that vessel;

(b) the emergency response information required by 17 (a) must include:

(i) contingency plans specific to that ship and the equipment provided on board; and

(ii) specific emergency response information for every type of dangerous good carried on board;

(c) the emergency response information required by sub-section 17(a) shall be consistent with the procedures required by any Safety Management System adopted on board that ship.

(18) (a) any person involved in packing, shipping, receiving for carriage, handling dangerous goods or serving on board a ship where they are required to engage in deck duties, other than in a certificated capacity, must have received training in the safe handling of dangerous goods, recognition of hazard types, labelling requirements and general safety issues with regard to possible incidents involving such goods;

(b) all certificated deck officers on board vessels carrying dangerous goods shall have received the training in dangerous goods required by the Merchant Shipping (Training and Certification) Regulation 2006 or equivalent certificate structure applicable to the position that the officer is appointed.

(19) (a) liquid dangerous goods shall not be shipped in non-ISO portable tanks unless such tanks have been thoroughly inspected, tested and certified by a person approved by the Authority for that purpose within the 12 months immediately prior to the shipment.

(b) the inspection, testing and certification required by Subsection (a) shall be conducted in accordance with the requirements of the Merchant Shipping (Safe Containers) Regulation 2006.

(20) (a) every owner and master shall, in writing, report the nature and details of any incident involving the incorrect marking, documentation, packaging, stowage, spillage or leakage of dangerous goods to the Authority within 30 days of such an incident;

(b) every agent, stevedore or port authority that becomes aware of any incident involving the incorrect marking, documentation, packaging, stowage, spillage or leakage of dangerous goods imported from an international origin shall report the nature and details of any incident to the Authority within 30 days of becoming aware of such an incident;

(c) upon receiving the report of a dangerous goods incident the Authority shall investigate the circumstances of the case and, if deemed to be in the interests of maritime safety, determine whether a prosecution should be brought within Papua New Guinea;

(d) where the investigation required by Subsection 20(c) indicates that there was a failure to comply fully with the requirements of the IMDG Code in another country, the Authority should submit a full report of the details to the Administration in that country for further investigation.

(21) No person shall attempt or conspire, through either direct instruction or indirect actions, to influence:

(a) any officer of the Authority to permit the carriage of dangerous goods aboard a vessel; or

(b) the master, owner, or agent of a vessel to accept for carriage or to carry dangerous goods; other than in accordance with this Regulation.

(22) Any person commits an offence who, being a Master, owner, agent, shipper, passenger, or any other person, fails to comply with any part of, or any of, or all of, the provisions of this

Regulation, and where no penalty is specified, shall be liable upon conviction to a fine not exceeding K25,000 and/or a term of imprisonment not exceeding 2 years.

Schedule I: Model Declaration for Type A Dangerous Goods

Shipments

Ship/Voyage Number . . . Date . . . from Port . . . to Port . . .

Dangerous Cargo Declaration Shipper To Complete this

section

Cargo	CLASS	UN Number	Packing Group	Ship Stowage Category	Number of		Number of other sized drums, tins, Drums cans, or packages: NUMBER	TOTAL GROSS WEIGHT
					200 litre (44 Gallon)	SIZE EACH		
Kerosene	3	1223	III	A	...	...	...	...
Petrol, inc 2-stroke	3	1203	II	E	...	...	...	...
Gas Oil Diesel	3	1202	III	A	...	...	...	...
LPG	2.1	1075	-	D	...	...	...	...
Batteries, wet, acid	8	2794	III	A	...	...	...	...
Paint thinners	3	1263	I	E	...	...	...	...
Paint, oil based	3	1263	III	A	...	...	...	...
Other products:					...	...	...	...

Schedule II: Model Declaration for Type B Dangerous Goods

Shipments

Ship/Voyage Number . . . Date . . . from Port . . . to Port . . .

Dangerous Cargo Declaration for Type B Goods Shipments only

Cargo	IMDG CLASS	UN Number	Number of		TOTAL GROSS WEIGHT
			200 litre (44 Gallon) DRUMS cans, or packages:	other sized drums, tins, NUMBER SIZE EACH	

Kerosene	3	1223
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Petrol, inc	3	1203
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2-stroke

Gas Oil, 3	1202
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Diesel

LPG	2.1	1075
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Batteries, wet, acid	8	2794
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Paint	3	1263
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thinners

Paint, oil based	3	1263
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Other products:		
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"I declare that the contents of this shipment are packed in a suitable condition for transport and are clearly labelled"

Shipper's Name . . . Signature . . . Date . . .