

Dangerous Goods (Amendment) Bill 2000

Administration's response to issues raised at the Bills Committee meeting held on 12 December 2001

To consider amending clause 8 by adding "aircraft" after "vessel" in section 12(2)(f) of the Dangerous Goods Ordinance (Cap. 295) (DGO) to make it consistent with (b) and (e) of the same section.

To consider amending clause 8 by substituting "in the opinion of the officer or member" by "the officer or member reasonably believes" in section 12(2)(f) of the DGO.

We accept Members' views and have included the proposed amendments in a revised list of CSA (**Annex A**).

Taking into account similar legislative provisions for failure to report accidents, to consider the need for imposing an imprisonment term for repeated offenders for failure to report any accident by explosion or fire in any licensed premises under section 13 of the DGO.

2. We have researched into the penalty provisions for comparable offences in other safety-related legislation. A summary is provided as follows.

3. The supply, use, conveyance and storage of special effects materials (including certain explosive materials and liquefied petroleum gas) for producing special effects for films, television and theatrical productions are regulated by the Entertainment Special Effects Ordinance (Cap. 560) which came into operation in March 2001. In this relation, s. 40 of the Entertainment Special Effects (General) Regulation (Cap. 560 sub. leg.) provides that a licence or permit holder shall report any fire which requires emergency action by the Fire Services Department [s. 39(1)(b)] or accident which results in death, bodily injury or damage to property [s. 39(1)(c)] to the Fire Services Department or the Hong Kong Police Force. Under s. 40(8), a person who fails to report as required commits an offence and is liable to a fine at level 2.

A copy of ss. 39 and 40 is attached at **Annex B** for Members' reference.

4. As regards marine safety involving local vessels, under s. 57 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) enacted in 1999,

failure of the owner of a local vessel to report a collision of the vessel with another vessel, the sinking of the vessel, the death or serious injury of a person on board the vessel as a result of an accident, an explosion or fire on board the vessel or the loss of a person or cargo overboard from the vessel is an offence and is punishable by a fine at level 3. It is also an offence under s. 58 for the owner of a local vessel not to report forthwith any fire occurring on board a local vessel within the waters of Hong Kong to the Director of Fire Services and the penalty for contravention is a fine at level 3. A copy of ss. 57 and 58 are attached at **Annex C** for Members' reference.

5. Similar offences and the same penalty levels can be found in ss. 67 and 69 of the Shipping and Port Control Ordinance (Cap. 313) in relation to vessels in general. A copy of ss. 67 and 69 is attached at **Annex D** for Members' reference. As regards ocean-going vessels, under s. 80 of the Merchant Shipping (Safety) Ordinance (Cap. 369), failure of the owner or master of a ship without reasonable excuse to report any loss or damage to the ship, or loss of life or serious personal injury caused by fire on board or by any accident to the ship, or any damage caused by the ship to the Director of Marine as soon as practicable is an offence and is punishable by a fine of \$10,000 (equivalent to the current level 3 fine). A copy of s. 80 is attached at **Annex E** for Members' reference.

6. As regards occupational safety, s. 13 of the Occupational Safety and Health Ordinance (Cap. 509) provides that the person responsible for a workplace must notify an accident that causes the death of, or serious bodily injury to, an employee to an occupational safety officer within 24 hours after the time when the accident occurred. Failure to do so is an offence and the person responsible for the workplace would be liable on conviction to a fine at level 5. A copy of s. 13 is attached at **Annex F** for Members' reference.

7. Regarding road safety, s. 56 of the Road Traffic Ordinance (Cap. 374) requires the driver of a vehicle to report to the police any accident involving injury as soon as reasonably practicable. Failure to do so is an offence punishable by a fine at level 4 (i.e. \$25,000) (by operation of s. 113C of the Criminal Procedure Ordinance, Cap. 221) and an imprisonment term for 6 months. A copy of s. 56 is attached at **Annex G** for Members' reference.

8. We find that it is uncommon to impose an imprisonment term for "failure to report" offences. Among the examples cited above, a custodial

penalty is found in s. 56 of the Road Traffic Ordinance. In this case, it is necessary to impose a heavier penalty including an imprisonment term to provide a stronger deterrent effect in order to prevent the driver from making off the scene without reporting the traffic accident. Relevant considerations include the difficulties involved in tracing an unknown driver and the relatively higher occurrence of traffic accidents. Such considerations do not apply to s. 13 of the DGO, as it should not be difficult to identify the occupier of the licensed premises for storage of dangerous goods and FSD has hardly encountered any case of failure to report explosion or fire in licensed premises. We are therefore of the view that the proposed further increase of the fine to level 3 without any imprisonment term is on par with the gravity of the offence.

To advise the adequacy of the defence provision under section 22 of the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg.) (MS(DG&MP)R), and the administrative steps taken before declaring any substances to be dangerous under section 2(1)(b) of the Merchant Shipping (Safety) Ordinance (Cap. 369) (MS(S)O).

9. Before a substance is declared as dangerous goods under the proposed s. 2(1) of the MS(S)O and the declaration comes into effect, the Marine Department will take a series of steps to ensure that adequate advance notice of the intended declaration will be given to all parties concerned.

10. After a decision on declaration has been made, the Marine Department will send letters to member countries of the International Maritime Organisation and promulgate Merchant Shipping Notice and Marine Department Notice to the shipping communities (including local ship owners and shipping agents representing overseas parties in Hong Kong) to notify them of the intended declaration and the proposed effective date which would be roughly two months away. Gazettal of the declaration will follow in about a month's time. The gazette will specify the date of commencement, which will generally be one month from the gazettal to allow for expiry of the negative vetting procedures by LegCo. Another Merchant Shipping Notice and Marine Department Notice will also be issued to publicise the gazettal of the declaration and the commencement date. These steps should provide sufficient advance notice to all concerned, as a ship journey to Hong Kong would hardly take longer than two months.

11. The MS(DG&MP)R, made under ss. 101 and 107 of the MS(S)O and s. 3 of the Merchant Shipping (Prevention and Control of Pollution)

Ordinance (Cap. 413), provides for controls over the safe conveyance of dangerous goods by sea. We consider that the defence provisions under s. 22 (copy at **Annex H**) of the MS(DG&MP)R are adequate to protect innocent parties.

12. Notably s. 22(1) provides that it shall be a defence in any proceedings for an offence under Parts II, III and IV of the MS(DG&MP)R (concerning stowage, packing, marking and labelling of dangerous goods conveyed by sea) that the person charged has taken all reasonable steps to ensure compliance with the Regulation; and s. 22(2) provides that it shall be a defence that the person charged neither knew nor ought to have known, or had no reasonable grounds to suspect, that the goods were dangerous goods. Before any prosecution action is taken, the authority must first be satisfied that there is sufficient evidence against a person and that there is a reasonable chance to secure conviction. The circumstances of the case as well as the availability of possible defence under s. 22 will be considered. If there is a good chance that a defence under s. 22 can be successfully made out, no prosecution would be brought. For instance, in case a certain substance is declared to be dangerous goods under s. 2(1) of the MS(S)O only when a vessel conveying such substance is already en route to Hong Kong, the responsible persons who know or ought to have known the declaration should do all that is reasonable in the circumstances to meet the requirements resulting from the declaration (e.g. furnish manifests to the Marine Department before arrival of the vessel). No prosecution would be brought should it be considered that all reasonable actions have been taken.

Security Bureau
January 2002

Annex A

1st draft : 7.3.2001
2nd draft : 9.5.2001
3rd draft : 15.5.2001
4th draft : 25.5.2001
5th draft : 5.7.2001
6th draft : 11.9.2001
7th draft : 28.11.2001
8th draft : 6.12.2001
9th draft : 10.1.2002

Dangerous Goods (Amendment) Bill 2000

Committee Stage

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
2(c)	In the proposed definition of “船隻”, paragraph (a), by deleting “中國式帆船” and substitution “中式帆船”.
4(a)	(a) By deleting subparagraph (ii) and substituting - “(ii) by repealing paragraph (b) and substituting - “(b)the exemption from the operation of this Ordinance or any part thereof of- (i) any - (A) substance, material or article; or

(B) group or
description
of
substances,
materials or
articles

to which this
Ordinance this
Ordinance applies, or
any quantity thereof;
or

(ii) any group or
description of
person,

by reference generally or by
reference to any
circumstances as may be
specified and subject to such
terms and conditions as may
be specified;”.”.

(b) By deleting the proposed paragraph (ma) and substituting –

“ (ma) empowering the -

(i) Director of Marine, in respect
of dangerous goods at sea;
and

(ii) Director of Fire Services, in
respect of dangerous goods on
land,

To grant in exemption, in respect of a

specific case or a specific person, from all or any of the provisions of this Ordinance or a regulation, subject to such terms and conditions as he Director of Marine or the Director of Fire Services may specify.”

(c) By deleting the proposed paragraph (mb).

(d) By deleting the proposed paragraph (mb) and substituting -

“(mb) measures to be taken in the event of an emergency occurring while dangerous goods are being transported by vehicle;”

By deleting the clause and substituting -

“8. Power of entry, etc.

Section 12 is amended -

(a) in subsection (1) -

(i) by adding “and any officer of the Marine Department not below the rank of Marine Inspector II” after “Commissioner of Mines,”;

(ii) in paragraph (b), by adding “, material or article” after “substance”;

(b) in subsection (2) -

- (i) by repealing “and” at the end of paragraph (d);
- (ii) by repealing the full stop at the end of paragraph (e) and substituting “; and”;
- (iii) by adding –

“(f)detain any vessel, vehicle or aircraft which he is empowered to stop, board and search and any person on board such vessel, vehicle or aircraft, where the officer or member has reasonable grounds for believing that anything liable to seizure under subsection (1)(e) results in a danger to public safety, and such detention may continue until the officer or member is satisfied that the danger to public safety has been removed.”.

- 10(a) (a) In the proposed paragraph (a), by adding “or 7” after “section 6”
- (b) In the proposed paragraph (b), by deleting “7.”.
- 10(b) By deleting “level 2” and substituting “level 3”.
- 11 In the proposed section 19A-
- (a) In subsection (1), by deleting “Where dangerous goods are being carried, or intended to be carried, on board a vessel” and substituting -
- “Where dangerous goods –
- (a) are being carried on board a vessel from a place outside Hong Kong to Hong Kong; or
- (b) are intended to be carried on board a vessel from Hong Kong to a place outside Hong Kong board a vessel from Hong Kong to a place outside Hong Kong.”
- (b) in subsection (2), by deleting “as part of an international journey” and substituting “ as part of a journey from a place outside Hong Kong to another place outside Hong Kong”.
- (c) by adding -
- “ (3) Subsection (1) also applies to dangerous goods where the vessel carrying or intended to carry such goods arrives at or departs from a port outside Hong Kong and the goods are transported by vehicle between Hong Kong and such vessel.”.
- 13(a) In the proposed new definition of “dangerous goods” -
- (a) by adding “or” at the end of paragraph (a).

(b) by repealing paragraph (b) and substituting –

“(b) the properties of which are, in the opinion of the Director, dangerous when carried by sea and the Director has, by notice in the Gazette, declared them to be so, “.

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Section of Enactment

Chapter:	560A	Title:	ENTERTAINMENT SPECIAL EFFECTS (GENERAL) REGULATION	Gazette Number:	L.N. 36 of 2001
Section:	39	Heading:	Notification of accidents, etc.	Version Date:	16/03/2001

PART VIII

REPORT OF ACCIDENTS, ETC.

(1) The following occurrences are notifiable in accordance with section 40-

- (a) any theft or loss of pyrotechnic special effects materials;
- (b) any fire relating to special effects materials which requires emergency action by the Fire Services Department;
- (c) any accident relating to the conveyance, storage or use of special effects materials which results in-
 - (i) the death of a person;
 - (ii) bodily injury to a person that results in the person being admitted to a hospital or clinic for treatment or observation; or
 - (iii) damage to any vehicle, vessel, aircraft, train, building or any other property;
- (d) any incident of misfire (including the failure to fire) of pyrotechnic special effects materials which requires the assistance of the Hong Kong Police Force under section 41.

(2) For the purposes of subsection (1)(c)(iii), "damage" (受損) does not include the destruction of properties or prop used in an entertainment programme that is intended as part of the special effects.

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Section of Enactment

Chapter:	560A	Title:	ENTERTAINMENT SPECIAL EFFECTS (GENERAL) REGULATION	Gazette Number:	L.N. 36 of 2001
Section:	40	Heading:	Reporting and investigation of accidents, etc.	Version Date:	16/03/2001

- (1) The following provisions of this section apply to any person holding a licence or permit issued under the Ordinance to which the special effects materials involved in an occurrence notifiable under section 39 are related.
- (2) In the event of an occurrence referred to in section 39(1)(a), the person who holds the licence or permit, as the case may be, shall report to the Hong Kong Police Force as soon as practicable.
- (3) In the event of a fire referred to in section 39(1)(b), the person who holds the licence or permit, as the case may be, shall report forthwith either to the Fire Services Department or the Hong Kong Police Force.
- (4) In the event of an accident referred to in section 39(1)(c), the person who holds the licence or permit, as the case may be, shall-
- (a) irrespective of whether pyrotechnic special effects materials are involved, report forthwith to the Hong Kong Police Force; and
- (b) where pyrotechnic special effects materials are involved, provide a description of the pyrotechnic special effects materials and a list of the quantities of the materials when the report required under paragraph (a) is made.
- (5) Whenever there is an occurrence notifiable under section 39, the person who holds the licence or permit shall, in addition to any report which he may have made or is required to make under subsection (2), (3) or (4)-
- (a) notify the Authority of such occurrence as soon as practicable; and
- (b) submit a report of the occurrence in writing to the Authority within 3 working days of the occurrence containing the particulars specified in subsection (6).
- (6) A report under subsection (5)(b) shall contain-
- (a) the circumstances and details of the occurrence (including the date, the place and the nature of the occurrence);
- (b) the names, addresses and other details, where available, of all persons involved and witnesses thereto; and
- (c) the description and quantities of special effects materials involved.
- (7) The Authority may require the person who has made a report under subsection (5) to-
- (a) conduct a detailed investigation into the causes of the occurrence;
- (b) report in writing the findings of the investigation and the recommendations to prevent future similar occurrences; and
- (c) submit to him the report in such form and within such period as the Authority may determine.

(8) A person who fails to-

- (a) report an occurrence in contravention of subsection (2);
- (b) report a fire in contravention of subsection (3);
- (c) report an accident in contravention of subsection (4); or
- (d) comply with subsection (5)(a),

commits an offence and is liable to a fine at level 2.

(9) A person who fails to comply with subsection (5)(b) or (7) commits an offence and is liable to a fine at level 3.

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Section of Enactment

Chapter:	548	Title:	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number:
Section:	57	Heading:	Duty to report collisions, etc.	Version Date:

Remarks:
not yet in operation

PART XI

DUTIES TO REPORT COLLISIONS AND FIRES, ETC.

- (1) Where, within the waters of Hong Kong or elsewhere-
- (a) a local vessel is involved in a collision with another vessel, a port facility or other property;
 - (b) a local vessel sinks or becomes stranded or disabled;
 - (c) a person is killed or seriously injured on board a local vessel as a result of an accident;
 - (d) an explosion or fire occurs on board a local vessel;
 - (e) damage is caused by a local vessel to a port facility or other property; or
 - (f) a person, cargo or equipment is lost overboard from a local vessel,
- the owner of the vessel, his agent or the coxswain shall report the occurrence forthwith to the Director orally, by means of signals, or in writing and shall furnish to the Director in writing full particulars thereof within 24 hours after the occurrence.
- (2) The owner of a local vessel, his agent or the coxswain who-
- (a) without reasonable excuse fails to comply with subsection (1); or
 - (b) makes a report or furnishes any particulars under subsection (1) which he knows to be false in any material particular,
- commits an offence and is liable on conviction to a fine at level 3.
- (3) For the purpose of subsection (1)(c), a person shall be deemed to be seriously injured if he is admitted to a hospital immediately after he sustains the injury for observation or treatment.

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Section of Enactment



Chapter:	548	Title:	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number:
Section:	58	Heading:	Duty to report fires on local vessel	Version Date:

Remarks:
not yet in operation

- (1) Where-
- (a) a fire occurs on board a local vessel within the waters of Hong Kong; or
- (b) a local vessel which is on fire arrives within the waters of Hong Kong, the owner of the vessel, his agent or the coxswain shall report such occurrence or arrival forthwith to the Director of Fire Services.
- (2) The Director of Fire Services and any member of the Fire Services Department of or above the rank of Principal Fireman may, at any time of day or night, board any local vessel in the waters of Hong Kong for the purpose of extinguishing a fire on board the vessel whether or not the fire has been reported to the Director of Fire Services, and may take with him such persons as may be necessary to assist him for such purpose.
- (3) The owner of a local vessel, his agent or the coxswain who without reasonable excuse fails to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 3.

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Section of Enactment

Chapter:	313	Title:	SHIPPING AND PORT CONTROL ORDINANCE	Gazette Number:
Section:	67	Heading:	Duty to report collisions, etc.	Version Date: 30/06/1997

(1) Where, within the waters of Hong Kong-

(a) a vessel is involved in a collision with another vessel, a port facility or other property;

(b) a vessel sinks or becomes stranded or disabled;

(c) a person is killed or seriously injured on board a vessel as a result of an accident;

(d) an explosion or fire occurs on board a vessel;

(e) damage is caused by a vessel to a port facility or other property; or

(f) a person, cargo or equipment is lost overboard from a vessel,

the owner or his agent or the master of the vessel shall report the occurrence forthwith to the Director orally, by means of signals, or in writing and shall furnish to the Director in writing full particulars thereof within 24 hours after the occurrence.

(2) An owner, agent or master of a vessel who-

(a) without reasonable excuse fails to comply with subsection (1); or

(b) makes a report or furnishes any particulars under subsection (1) which he knows to be false in any material particular, commits an offence and is liable to a fine of \$10000.

(3) For the purposes of subsection (1)(c) a person shall be deemed to be seriously injured if he is admitted to a hospital immediately after he sustains the injury for observation or treatment.

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Section of Enactment

Chapter:	313	Title:	SHIPPING AND PORT CONTROL Gazette ORDINANCE	Number:	
Section:	69	Heading:	Duty to report fires on vessels	Version Date:	30/06/1997

(1) Where-

(a) a fire occurs on board a vessel within the waters of Hong Kong; or
 (b) a vessel which is on fire arrives within the waters of Hong Kong,
 the owner or his agent or the master of the vessel shall report such occurrence or arrival forthwith to the Director of Fire Services.

(2) The Director of Fire Services and any member of the Fire Services Department of or above the rank of Principal Fireman may, at any time of day or night, board any vessel in the waters of Hong Kong, other than a warship, for the purpose of extinguishing a fire on board the vessel whether or not the fire has been reported to the Director of Fire Services, and may take with him such persons as may be necessary to assist him for such purpose.

(3) An owner, agent or master who without reasonable excuse fails to comply with subsection (1) commits an offence and is liable to a fine of \$10000.

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Section of Enactment

Chapter:	369	Title:	MERCHANT SHIPPING (SAFETY) ORDINANCE	Gazette Number:
Section:	80	Heading:	Report to Director of accidents to ships	Version Date: 30/06/1997

(1) Where any of the following casualties has occurred-

(a) the loss or presumed loss, stranding, grounding, abandonment of or damage to a ship;

(b) a loss of life or serious personal injury caused by fire on board or by any accident to a ship or a ship's boat, or by any accident occurring on board a ship or ship's boat; or

(c) any damage caused by a ship,

and, at the time it occurred, the ship was registered in Hong Kong, the owner or master of the ship shall, as soon as practicable, and in any case not later than 24 hours after the ship's arrival at the next port, submit to the Director a written report of the accident or damage.

(2) The report referred to in subsection (1) shall-

(a) give a brief description of the accident or damage;

(b) state the time and place where it occurred;

(c) state the name of the ship and its official number, its position at the time of the report and the next port of call; and

(d) give the particulars of any other ship involved in the accident.

(3) If the owner or master of a ship fails without reasonable excuse to comply with this section he commits an offence and is liable to a fine of \$10000.

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Section of Enactment

Chapter:	509	Title:	OCCUPATIONAL SAFETY AND HEALTH ORDINANCE	Gazette Number:
Section:	13	Heading:	Person responsible for workplace to notify accidents and other matters	Version Date: 30/06/1997

PART IV

WORKPLACE ACCIDENTS AND OCCUPATIONAL DISEASES

(1) If-

(a) an accident occurs at a workplace; and

(b) the accident causes the death of, or serious bodily injury to, an employee, the person responsible for the workplace must notify the accident to an occupational safety officer within 24 hours after the time when the accident occurred.

(2) If-

(a) notification of an accident under subsection (1) is not contained in a written report that contains the particulars required by subsection (3); or

(b) an employee who is a victim of an accident that has occurred at a workplace (other than an accident notified under subsection (1)) has been incapacitated by the accident, the person responsible for the workplace must in writing report the accident to an occupational safety officer within 7 days after the date of the accident.

(3) A report prepared for the purposes of subsection (2) must contain the following particulars-

(a) the name and principal business address of the occupier of the premises concerned;

(b) if the victim is an employee of an employer who is not the occupier of the premises, the name and principal business address of the employer;

(c) the name, residential address, gender, identity card number, age (if known) and occupation (if any) of the victim of the accident;

(d) details of the industrial, commercial or other activities carried on at the workplace;

(e) particulars of the accident, including the injury and whether death or incapacity ensued and the activity that the victim was engaged in at the time of the accident.

(4) A report of an accident is not required under subsection (3) if notice of the accident has been given in accordance with section 15 of the Employees' Compensation Ordinance (Cap 282).

(5) If a victim of an accident that occurred at a workplace dies after the accident has been notified or reported in accordance with this section, the person responsible for the workplace must, within 24 hours after becoming aware of the death, report the death to an occupational safety officer and to the police officer in charge of the police station nearest to the workplace. The report can be made orally or in writing.

(6) A person responsible for a workplace who fails to comply with a requirement of this section commits an offence and is liable on conviction to a fine at level 5.

(7) In this section-

"accident" (意外) includes any event that detrimentally affects the health of a person;

"incapacitated" (喪失工作能力), in relation to a victim of an accident, means that the victim is permanently or temporarily incapacitated from working in any capacity in which, but for the accident, the victim would have been capable of working.

(8) For the purposes of this section, a victim of an accident is incapacitated from working only if the incapacity prevents the victim from working for at least 3 days.

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Section of Enactment

Chapter:	374	Title:	ROAD TRAFFIC ORDINANCE	Gazette Number:
Section:	56	Heading:	Duty to stop in case of accidents	Version Date: 30/06/1997

PART VII

ACCIDENTS

(1) Where, owing to the presence of a vehicle on a road, an accident occurs whereby-

(a) personal injury is caused to a person other than the driver of that vehicle; or

(b) damage is caused to-

(i) a vehicle other than that vehicle or a trailer drawn thereby;

(ii) an animal other than an animal in or on that vehicle or a trailer drawn thereby;

or

(iii) any other thing not being in or on that vehicle or a trailer drawn thereby,

the driver of that vehicle shall stop.

(2) In the case of any such accident, the driver of the vehicle shall, if required, give to any police officer or to any person having reasonable grounds for so requiring the following particulars-

[cf. 1972 c. 20 s. 25(2) U.K.]

- (a) his name and address;
- (b) the name and address of the owner of the vehicle; and
- (c) the registration or identification mark or number of the vehicle.

(2A) If, in the case of an accident referred to in subsection (1)(b), the driver of the vehicle for any reason does not give the particulars mentioned in subsection (2), he shall report the accident in person at the nearest police station or to any police officer as soon as reasonably practicable, and in any case not later than 24 hours after the accident. (Added 66 of 1984 s. 7)

(3) If the accident involves injury to any person including the driver, the driver shall report the accident in person at the nearest police station or to any police officer as soon as reasonably practicable, and in any case not later than 24 hours after the accident, unless the driver is incapable of doing so by reason of injuries sustained by him in the accident. [cf. 1972 c. 20 s. 25(3) U.K.]

(4) In this section "animal" (動物) means any horse, cattle, ass, mule, sheep, pig or goat. [cf. 1972 c. 20 s. 25(4) U.K.]

(5) A person who contravenes subsection (1) commits an offence and is liable to a fine of \$10000 and to imprisonment for 12 months.

(6) A person who contravenes subsection (2), (2A) or (3) or who knowingly makes a false statement in supplying particulars under subsection (2) commits an offence and is liable to a fine of \$15000 and to imprisonment for 6 months.

(Amended 66 of 1984 s. 8)

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Section of Enactment

Chapter:	413H	Title:	MERCHANT SHIPPING (SAFETY) (DANGEROUS GOODS AND MARINE POLLUTANTS) REGULATION	Gazette Number:	64 of 1999
Section:	22	Heading:	Defences	Version Date:	05/11/1999

(1) It shall be a defence in any proceedings for an offence under Part II, III or IV that the person charged took all reasonable steps to ensure compliance with this Regulation.

(2) It shall be a defence in any proceedings for an offence under this Regulation-

(a) that the person charged-

(i) neither knew nor ought to have known; or

(ii) had no reasonable grounds to suspect,

that the goods were dangerous goods or marine pollutants as the case may be;

(b) that the goods were handled and carried in accordance with the provisions of the IMDG Code where appropriate;

(c) if the person charged is the shipowner or master, in the case of goods packed in a freight container or vehicle, that before the freight container or vehicle was taken on board the ship the person responsible for packing the goods into the freight container or vehicle had furnished the shipowner or master of the ship with a signed packing certificate certifying that the goods had been properly packed in the freight container or vehicle;

(d) that the goods being solid dangerous goods in bulk were being handled and carried in accordance with the Bulk Cargoes Code;

(e) that the goods being liquid chemical or gaseous dangerous goods in bulk were being handled and carried in accordance with the relevant requirements of the BCH Code, the IBC Code or the IGC Code; or

(f) that the goods were being carried in accordance with Merchant Shipping Notices No. 1015, 1016 or 1017 where appropriate. (64 of 1999 s. 3)

(Enacted 1994)

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