
STATUTORY INSTRUMENTS

1998 No. 1056

MARINE POLLUTION

**The Merchant Shipping (Oil Pollution Preparedness,
Response and Co-operation Convention) Regulations 1998**

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| <i>Made</i> | - - - - | <i>16th April 1998</i> |
| <i>Laid before Parliament</i> | | <i>23rd April 1998</i> |
| <i>Coming into force</i> | - - | <i>15th May 1998</i> |

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred by article 2 of the Merchant Shipping (Oil Pollution Preparedness, Response and Cooperation) Order 1997⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 and shall come into force on 15th May 1998.

Interpretation

2. In these Regulations, unless the context requires otherwise:

“GT” means gross registered tonnage, and the gross registered tonnage of a ship having alternative gross registered tonnages shall be taken to be the larger of those tonnages;

“MCA” means the Maritime and Coastguard Agency, an executive agency of the Department of the Environment, Transport and the Regions;

“National Contingency Plan” means the national plan for pollution emergencies prepared by the Secretary of State pursuant to section 293(2)(za) of the Merchant Shipping Act 1995⁽²⁾;

“offshore installation” means any fixed or floating offshore installation or structure engaged in gas or oil exploration or production activities, or loading or unloading of oil;

“oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

⁽¹⁾ S.I.1997/2567.

⁽²⁾ 1995 c. 21; section 293(2)(za) was inserted by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 6, paragraph 17.

“oil handling facility” means a facility which presents a risk of an oil pollution incident and includes, inter alia, an oil terminal, pipeline and any other facility handling oil but does not include an offshore installation;

“oil pollution emergency plan” means a contingency plan (other than the National Contingency Plan) setting out arrangements for responding to incidents which cause or may cause marine pollution by oil, with a view to preventing such pollution or reducing or minimising its effect;

“oil pollution incident” means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of the United Kingdom and which requires emergency action or other immediate response;

“operator” means, in relation to an oil handling facility a person having, for the time being, the management of such facility in the United Kingdom, and in relation to an offshore installation, includes any person having the management of the installation;

“standard reporting requirements” means the requirements stated in—

- (a) part 2 (Standard Reporting Format and Procedures); and
 - (b) sections 3.1, 3.2 and 3.3 of part 3 (Guidelines for Detailed Reporting Requirements);
- of the Appendix to the Annex to Resolution A. 648(16) adopted by the Assembly of the International Maritime Organization on 19th October 1968;

“United Kingdom ship” has the meaning given by section 85(2) of the Merchant Shipping Act 1995.

Application

3.—(1) In their application to harbours and oil handling facilities these Regulations apply to:

- (a) any harbour for which there is a statutory harbour authority having an annual turnover, as defined in the Schedule hereto, of more than £1 million;
- (b) any other harbour, and any oil handling facility, offering berths alongside, on buoys or at anchor, to ships of over 400 GT or oil tankers of over 150 GT;
- (c) any other harbour, and any oil handling facility, in respect of which the Secretary of State has served the harbour authority or operator (as the case may be) with a notice stating that he is of the opinion that maritime activities are undertaken at that harbour or facility which involve a significant risk of discharge of over 10 tonnes of oil; and
- (d) any other harbour or oil handling facility in respect of which the Secretary of State has served the harbour authority or operator (as the case may be) a notice stating that he is of the opinion that it is located in an area of significant environmental sensitivity, or in an area where a discharge of oil or other substances could cause significant economic damage.

(2) In their application to offshore installations, these Regulations apply to every offshore installation in United Kingdom waters and in any area designated under the Continental Shelf Act 1964(3).

Oil pollution emergency plans

4.—(1) Every—

- (a) harbour authority of a harbour to which these Regulations apply;
- (b) operator of an oil handling facility to which these Regulations apply; and
- (c) operator of an offshore installation to which these Regulations apply,

(3) 1964 c. 29.

shall have an oil pollution emergency plan in accordance with this regulation.

(2) There shall be a separate plan for each harbour, oil handling facility and offshore installation except that:

- (a) there may be joint plans between harbour authorities and operators of oil handling facilities, within an area;
- (b) there may be joint plans in respect of offshore installations and oil handling facilities which are pipelines associated with that installation.

(a) Subject to paragraphs (4) and (7) below, within 15 months of the coming into force of these Regulations every harbour authority and every operator shall submit an oil pollution emergency plan relating to its harbour or oil handling facility or offshore installation, as the case may be, to the MCA for approval.

(b) In preparing an oil pollution emergency plan a harbour authority or operator shall take into account any guidance issued by the MCA.

(a) Where, after the coming into force of these Regulations:

- (i) a harbour comes into being;
- (ii) an oil handling facility comes into being; or
- (iii) in respect of an offshore installation activities are commenced on the site of drilling for, or production of oil,

paragraph (3) above shall apply so as to require the submission of a plan at least two months before:

- (aa) such harbour or oil handling facility comes into being, or as the case may be
- (bb) activities are commenced in respect of an offshore installation.

(b) In relation to a harbour referred to in sub-paragraph (a)(aa) above, where there is no harbour authority at that time, paragraph (3) above shall apply so as to require submission of a plan by the promoter of the proposed harbour.

(a) Every harbour authority and every operator shall fully review its oil pollution emergency plan no later than 5 years after submission of the plan in accordance with paragraph (3) or (4) above, as the case may be, and re-submit a plan within that period.

(b) Where any major change occurs which affects or could affect the validity or effectiveness of a plan to a material extent then the harbour authority or operator in question shall submit a new plan, or amendments to the existing plan, within 3 months of such change becoming known, to that authority or operator.

(6) Where the MCA consider that any plan or amendment submitted under paragraph (3), (4) or (5) above is:

- (i) not compatible with the National Contingency Plan for the time being in force; or
- (ii) not appropriate for dealing with oil pollution incidents which may occur in the area in which the harbour authority or operator has jurisdiction or exercises responsibility,

the MCA may, after consultation with the harbour authority or operator, direct that the plan shall be altered accordingly. It shall be the duty of the harbour authority or operator to alter the plan in accordance with any such direction.

(7) In relation to offshore installations and oil handling facilities which are pipelines this regulation shall apply with the substitution, for any reference to the MCA, of a reference to the Secretary of State for Trade and Industry.

(8) It shall be the duty of every operator and every harbour authority to implement its oil pollution emergency plan approved or altered under this regulation in the event of an oil pollution incident.

Reporting of incidents: ships and offshore installations

- 5.—(1) The master of a United Kingdom ship, when—
- (a) his ship is in United Kingdom waters or controlled waters, and
 - (b) when his ship is elsewhere,

who observes or otherwise becomes aware of any event involving discharge of oil at sea from another ship or from an offshore installation, shall report it without delay—

- (i) in the circumstances at sub-paragraph (a) above, to HM Coastguard; and
- (ii) in the circumstances at sub-paragraph (b) above, to the nearest coastal state.

(2) An individual having charge of an offshore installation or an oil handling facility which is pipeline who observes or otherwise becomes aware of any event involving discharge of oil at sea from another installation or a ship shall without delay report it to HM Coastguard.

(3) In this regulation “controlled waters” means water specified as areas within which the jurisdiction and rights of the United Kingdom are exercisable by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996(4).

Reporting of incidents: harbour authorities and oil handling facilities

6.—(1) A harbour master, or other individual having charge of a harbour, and any individual having charge of an oil handling facility (except those which are pipelines), who observes or is made aware of any event involving a discharge of or probable discharge of oil, or the presence of oil in the sea shall without delay report the event, or the presence of oil, as the case may be, to HM Coastguard.

(2) A report under this regulation shall so far as appropriate as to form and content comply with the standard reporting requirements.

Offences

7.—(1) Any harbour authority or any operator of an offshore installation or of an oil handling facility who without reasonable cause:

- (a) fails to submit or re-submit an oil pollution emergency plan in accordance with regulation 4(3), (4) or (5);
- (b) does not maintain an oil pollution emergency plan, as approved (with alterations directed by the MCA or the Secretary of State, as the case may be, if so directed) under regulation 4(5) to (7); or
- (c) fails to implement its oil pollution emergency plan in contravention of regulation 4(8),

shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine.

(2) Any person required to make a report under regulation 5 or 6, as the case may be who, without reasonable cause, fails to comply with that requirement in all respects shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine.

Inspection of offshore installations

8. Any person duly authorised by the Secretary of State may inspect any offshore installation or oil handling facilities which are pipelines to which these Regulations apply.

(4) S.I. 1996/2128, amended by S.I. 1997/506.

Signed by authority of the Secretary of State for Environment, Transport and the Regions

16th April 1998

Glenda Jackson
Parliamentary Under Secretary of
State, Department of the Environment, Transport
and the Regions

SCHEDULE

Regulation 3(1)(a)

MEANING OF “ANNUAL TURNOVER”

1. References in this Schedule to the authority’s harbour undertaking are references to all activities of the authority in relation to which the authority is required under section 42(1) of the Harbours Act 1964⁽⁵⁾ to prepare annual statement of accounts.

2. For the purposes of regulation 3(1)(a), the annual turnover of a harbour authority’s harbour undertaking for any accounting year of the authority is the aggregate, as stated in any statement of accounts prepared under section 42(1) of the Harbours Act 1964 in respect of that accounting year, of all sums received by the authority during that year.

3. The reference in paragraph 2 above to sums received by the authority does not include sums received by way of grant from any public authority or any capital receipts or loans.

4. Where a harbour authority is required under section 42(2) of the Harbours Act 1964 to prepare annual statements or accounts relating to activities carried on by the authority and subsidiaries of the authority—

- (a) the reference in paragraph 1 above to activities of the authority shall be read as including a reference to activities of any subsidiary of the authority;
- (b) the references in paragraphs 1 and 2 above to section 42(1) shall be read as references to section 42(2); and
- (c) the reference in paragraph 3 above to sums received by any subsidiary of the authority which are shown in the statement of accounts there mentioned (and subsection (4) above shall apply accordingly).

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement, in part, the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990. They require harbour authorities and operators of oil handling facilities and of offshore installations, where there is present a risk of an oil pollution incident, to have oil pollution emergency plans, which have to be approved by the Maritime and Coastguard Agency (“MCA”) of the Department of the Environment, Transport and the Regions as conforming to the National Contingency Plan (*regulation 4(1) and (6)*). The MCA may after consulting harbour authorities or operators of oil facilities direct that a plan be altered (*regulation 4(6)*). It is the duty of harbour authorities and such operators to implement the approved plan in the event of an oil pollution incident (*regulation 4(8)*). The Secretary of State (for Trade and Industry) has equivalent powers in relation to offshore installations and pipelines (*regulation 4(7)*).

2. The Regulations also contain provisions requiring masters of United Kingdom ships, and individuals having charge of harbours, oil handling facilities and offshore installations to report certain events involving the discharge of oil (*regulations 5 and (6)*). There are powers of inspection for the Secretary of State in relation to offshore installations and pipelines (*regulation 8*).

(5) 1964 c. 40; section 42 was amended by the Transport Act 1981 (c. 56), Schedule 6, paragraph 6(8) and Schedule 12, Part II.

3. A cost compliance assessment has been prepared, and may be obtained from the Marine Pollution Control Unit of the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG. A copy has been placed in the library of each House of Parliament.

4. Copies of the Convention and Assembly Resolutions can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR. Copies of the National Contingency Plan can be obtained from the Marine Pollution Control Unit of the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG.