

Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships

Article 1

Objective

The purpose of this Regulation is to reduce or eliminate adverse effects on the marine environment and human health caused by organotin compounds, which act as active biocides in anti-fouling systems used on ships flying the flag of, or operating under the authority of, a Member State, and on ships, regardless of the flag they fly, sailing to or from ports of the Member States.

Article 2

Definitions

For the purpose of this Regulation:

1. 'anti-fouling system' means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms;
2. 'gross tonnage' means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention;
3. 'length' means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention;
4. 'ship' means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units (FSUs) and floating production storage and off-loading units (FPSOs);
5. 'AFS-Convention' means the International Convention on the control of harmful anti-fouling systems on ships, adopted on 5 October 2001, irrespective of its entry into force;
6. 'recognised organisation' means a body recognised in accordance with the provisions of Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations⁽¹⁾;
7. 'AFS-Certificate' means the certificate issued to ships in conformity with the provisions of Annex 4 to the AFS-Convention or, during the interim period, a certificate issued in accordance with the format laid down in Annex II to this Regulation, when it is issued by the administration of any Member State or by a recognised organisation acting on its behalf;
8. 'AFS-Declaration' means a declaration drawn up under the provisions of Annex 4 to the AFS-Convention or, during the interim period, a declaration signed by the owner

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or the owner's authorised agent and drawn up in accordance with the format laid down in Annex III to this Regulation;

9. [F1‘European AFS-Statement of Compliance’ means a document recording compliance with Annex 1 to the AFS-Convention, issued by a recognised organisation on behalf of the administration of a Member State;]
10. ‘interim period’ means the period beginning on 1 July 2003 and ending on the date of entry into force of the AFS-Convention.

Textual Amendments

- F1** Substituted by [Commission Regulation \(EC\) No 536/2008 of 13 June 2008 giving effect to Article 6\(3\) and Article 7 of Regulation \(EC\) No 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships and amending that Regulation.](#)

Article 3

Scope

- 1 This Regulation shall apply to:
 - a ships flying the flag of a Member State,
 - b ships not flying the flag of a Member State but operating under the authority of a Member State, and
 - c ships that enter a port or offshore terminal of a Member State but do not fall within points (a) or (b).
- 2 This Regulation shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

Article 4

Prohibition of the application of organotin compounds which act as biocides

As from 1 July 2003, organotin compounds which act as biocides in anti-fouling systems shall not be applied or re-applied on ships.

However, during the interim period this provision shall only apply to ships referred to in points (a) or (b) of Article 3(1).

Article 5

Prohibition of the bearing of organotin compounds which act as biocides

1 Ships entitled to fly the flag of a Member State as from 1 July 2003, and whose anti-fouling system has been applied, changed or replaced after that date, shall not bear organotin compounds which act as biocides in anti-fouling systems on their hulls or external parts and surfaces, unless they bear a coating that forms a barrier to such compounds to prevent them leaching from the underlying non-compliant anti-fouling system.

2 As from 1 January 2008 the ships referred to in Article 3(1) shall either not bear organotin compounds which act as biocides in anti-fouling systems on their hulls or external

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parts and surfaces, or bear a coating that forms a barrier to such compounds leaching from the underlying non-compliant anti-fouling system.

3 Paragraphs 1 and 2 shall not apply to fixed and floating platforms, FSUs and FPSOs constructed prior to 1 July 2003 that have not been in dry-dock on or after that date.

Article 6

Survey and certification

1 The following shall apply as regards the survey and certification of ships flying the flag of a Member State:

- a Ships of 400 gross tonnage and above, excluding fixed or floating platforms, FSUs and FPSOs, shall be surveyed and certified as from 1 July 2003 in accordance with the requirements laid down in Annex I, before the ship is put into service for the first time, or when the anti-fouling systems are changed or replaced.
- b Ships of 24 metres or more in length, but less than 400 gross tonnage, excluding fixed or floating platforms, FSUs and FPSOs, shall carry an AFS-Declaration to demonstrate compliance with Articles 4 and 5.

[^{F2}If necessary, the Commission may establish a harmonised survey and certification regime for these ships. That measure, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(2).]

- c Member States may establish appropriate measures for ships not covered by points (a) and (b) in order to ensure compliance with this Regulation.

2 The following shall apply as regards the recognition of certificates, declarations and statements of compliance:

- a as from 1 July 2003, Member States shall recognise any AFS-Certificate;
- [^{F1}b until a year after the date referred to in point (a), Member States shall recognise any European AFS-Statement of Compliance;]
- c as from 1 July 2003, Member States shall recognise any AFS-Declaration.

These declarations shall be accompanied by appropriate documentation (such as a paint receipt or a contractor invoice) or contain an appropriate endorsement.

[^{F23} If the AFS-Convention has not entered into force by 1 January 2007, the Commission shall adopt appropriate measures in order to allow ships flying the flag of a third State to demonstrate their compliance with Article 5. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(2).]

Textual Amendments

- F1** Substituted by Commission Regulation (EC) No 536/2008 of 13 June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) No 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships and amending that Regulation.
- F2** Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

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Article 7

Port State control

During the interim period Member States shall apply control provisions equivalent to those laid down in Directive 95/21/EC to ships of 400 gross tonnage and above flying the flag of a Member State. With regard to the inspections and detection of breaches, Member States shall be guided by the provisions of Article 11 of the AFS-Convention.

[^{F2}If the AFS-Convention has not entered into force by 1 January 2007, the Commission shall establish appropriate procedures for these controls. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(2).]

Textual Amendments

- F2** Substituted by [Regulation \(EC\) No 219/2009 of the European Parliament and of the Council of 11 March 2009](#) adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny
Adaptation to the regulatory procedure with scrutiny — Part Two.

[^{F2}Article 8

In order to take account of developments at international level and in particular in the International Maritime Organisation (IMO), or to improve the effectiveness of this Regulation in the light of experience, the Commission may amend the references to the AFS-Convention, to the AFS-Certificate, to the AFS-Declaration and to the AFS-Statement of Compliance and the Annexes to this Regulation, including relevant IMO guidelines in relation to Article 11 of the AFS-Convention. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(2).]

Textual Amendments

- F2** Substituted by [Regulation \(EC\) No 219/2009 of the European Parliament and of the Council of 11 March 2009](#) adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny
Adaptation to the regulatory procedure with scrutiny — Part Two.

[^{F2}Article 9

Committee procedure

1 The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) set up by Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council⁽²⁾.

2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.]

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Textual Amendments

- F2** Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

Article 10

Evaluation

By 10 May 2004, the Commission shall report to the European Parliament and the Council on the state of ratification of the AFS-Convention and provide information on the extent to which organotin compounds, which act as biocides in anti-fouling systems on ships, are still used on ships not flying the flag of a Member State operating to or from Community ports. In the light of this report the Commission may propose, if necessary, amendments to ensure accelerated reduction of the contribution by ships not flying the flag of a Member State to the presence of harmful anti-fouling compounds in the waters under the jurisdiction of Member States.

Article 11

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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- (1) [OJ L 319, 12.12.1994, p. 20](#). Directive as last amended by Directive 2002/84/EC of the European Parliament and of the Council.
- (2) [^{F2}[OJ L 324, 29.11.2002, p. 1](#).]

Textual Amendments

- F2** Substituted by [Regulation \(EC\) No 219/2009](#) of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny
Adaptation to the regulatory procedure with scrutiny — Part Two.

Changes to legislation:

There are outstanding changes not yet made to Regulation (EC) No 782/2003 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Art. 5 words substituted by [S.I. 2019/311 reg. 8\(4\)](#)
- Art. 6(1) words omitted by [S.I. 2019/311 reg. 8\(5\)\(a\)\(ii\)](#)
- Art. 6(1) words substituted by [S.I. 2019/311 reg. 8\(5\)\(a\)\(i\)](#)
- Art. 6(2) words substituted by [S.I. 2019/311 reg. 8\(5\)\(b\)](#)
- Art. 6(3) omitted by [S.I. 2019/311 reg. 8\(5\)\(c\)](#)
- Art. 7 words omitted by [S.I. 2019/311 reg. 8\(6\)\(b\)](#)
- Art. 7 words substituted by [S.I. 2019/311 reg. 8\(6\)\(a\)](#)
- Art. 8 substituted by [S.I. 2019/311 reg. 8\(7\)](#)
- Art. 9 omitted by [S.I. 2019/311 reg. 8\(8\)](#)
- Art. 10 omitted by [S.I. 2019/311 reg. 8\(8\)](#)
- Art. 11 words omitted by [S.I. 2019/311 reg. 8\(9\)](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Annex 1 para. 1(3) substituted by [S.I. 2019/311 reg. 8\(10\)\(b\)\(i\)](#)
- Annex 1 para. 2(1) substituted by [S.I. 2019/311 reg. 8\(10\)\(c\)\(i\)](#)
- Annex 1 heading words substituted by [S.I. 2019/311 reg. 8\(10\)\(a\)](#)
- Annex 1 para. 1(4) words substituted by [S.I. 2019/311 reg. 8\(10\)\(b\)\(ii\)](#)
- Annex 1 para. 2(2) words substituted by [S.I. 2019/311 reg. 8\(10\)\(c\)\(ii\)](#)
- Annex 1 para. 2(3) words substituted by [S.I. 2019/311 reg. 8\(10\)\(c\)\(iii\)](#)
- Annex 1 para. 2(4) words substituted by [S.I. 2019/311 reg. 8\(10\)\(c\)\(iv\)](#)
- Art. 2(6) words substituted by [S.I. 2019/311 reg. 8\(2\)\(a\)](#)
- Art. 2(7) words inserted by [S.I. 2019/311 reg. 8\(2\)\(b\)\(i\)](#)
- Art. 2(7) words substituted by [S.I. 2019/311 reg. 8\(2\)\(b\)\(ii\)](#)
- Art. 2(9) words inserted by [S.I. 2019/311 reg. 8\(2\)\(c\)\(i\)](#)
- Art. 2(9) words inserted by [S.I. 2019/311 reg. 8\(2\)\(c\)\(ii\)](#)
- Art. 2(11)(12) inserted by [S.I. 2019/311 reg. 8\(2\)\(d\)](#)
- Art. 3(1)(b) words inserted by [S.I. 2019/311 reg. 8\(3\)\(b\)](#)
- Art. 3(1)(c) words inserted by [S.I. 2019/311 reg. 8\(3\)\(c\)](#)
- Art. 3(1)(za) inserted by [S.I. 2019/311 reg. 8\(3\)\(a\)](#)
- Art. 6(1)(c) omitted by [S.I. 2019/311 reg. 8\(5\)\(a\)\(iii\)](#)