
STATUTORY INSTRUMENTS

2008 No. 3257

The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008

PART 1

General

Interpretation

2.—(1) In these Regulations—

“the 1995 Act” means the Merchant Shipping Act 1995;

“the 1995 Regulations” means the Merchant Shipping (Port State Control) Regulations 1995(1);

“additional survey” has the meaning given in regulation 10(4);

“Annex IV” means Annex IV to the Convention, being the Annex IV adopted by the Marine Environment Protection Committee of the IMO by resolution MEPC.115(51) on 1st April 2004, and includes—

(a) all the amendments to that Annex adopted by the Marine Environment Protection Committee of the IMO before the date on which these Regulations are made, and

(b) any subsequent amendment to that Annex which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“Annex V” means Annex V to the Convention, being the Annex V constituting part of attachment 1 to the final act of the International Conference on Maritime Pollution signed in London on 2nd November 1973, and includes—

(a) all the amendments to that Annex adopted by the Marine Environment Protection Committee of the IMO before the date on which these Regulations are made, and

(b) any subsequent amendment to that Annex which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“Antarctic area” means the sea area south of latitude 60° S;

“certified”, in relation to a ship, means certified in accordance with the Merchant Shipping (Survey and Certification) Regulations 1995(2);

“Certifying Authority” means the Secretary of State or any organisation which is an authorised organisation for the purposes of the Merchant Shipping (Ship Inspection and Survey Organisations) Regulations 1996(3);

(1) S.I. 1995/3128, amended by S.I. 1998/1433, 1998/2198, 2001/2349 and 2003/1636.

(2) S.I. 1995/1210, amended by S.I. 1996/2418, 1996/3188, 2000/1334, 2000/2687, 2002/1473, 2003/771, 2004/302, 2004/1107, 2004/2883, and 2005/2114.

(3) S.I. 1996/2908; an “authorised organisation” is defined in regulation 2 of those Regulations.

“Contracting Government” means the Government of a State which has consented to be bound by the Convention, and for which Annex IV to that Convention is in force;

“the Convention” means the International Convention for the Prevention of Pollution from Ships 1973 (including its protocols, annexes and appendices thereto)⁽⁴⁾ as amended by the Protocols of 1978⁽⁵⁾ and 1997⁽⁶⁾ and includes—

- (a) all the amendments to that Convention adopted by the Marine Environment Protection Committee of the IMO before the date on which these Regulations are made, and
- (b) any subsequent amendment to that Convention which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“controlled waters” means the waters specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996⁽⁷⁾ as areas within which the jurisdiction and rights of the United Kingdom are exercisable;

“date of expiry”, in relation to a Sewage Certificate held in respect of a ship, means the last day of the period specified in that Sewage Certificate as the period for which that Certificate is valid;

“exclusive economic zone”, in relation to a foreign State, means the area beyond and adjacent to the territorial sea of that State, but not extending beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured;

“flag State”, in relation to a ship, means the State whose flag the ship is entitled to fly;

“ground or comminuted to the required standard”, in relation to general garbage or food wastes, means ground or comminuted sufficiently finely so as to be capable of passing through a screen with openings no greater than 25 millimetres;

“GT” means gross tonnage, and the gross tonnage of a ship is to be determined for the purposes of these Regulations in accordance with the Schedule;

“harbour master” has the same meaning as in section 144(7) of the 1995 Act;

“holding tank” means a tank used for the collection and storage of sewage;

“IMO” means the International Maritime Organization;

“infrastructure”, in relation to a ship, means the structure, equipment, systems, fittings, arrangements and material of that ship, which are the subject of requirements in Annex IV;

“initial survey” has the meaning given in regulation 7(3);

“international voyage” means a voyage from a country to which the Convention applies to a port outside that country, or conversely;

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

“Merchant Shipping Notice” means a notice described as such and issued by the MCA, and any reference to a particular Merchant Shipping Notice includes a reference to a Merchant Shipping Notice amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time;

“nautical mile” means an international nautical mile of 1,852 metres;

“offshore terminal” means an installation situated away from the shore, where bulk, fluid or gas cargo (or more than one of these) is—

- (a) transferred between ships,

(4) Cmnd. 5748.

(5) Cmnd. 7347.

(6) Cmnd. 4427.

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

(b) loaded onto a ship after having been transported from the shoreline, or

(c) unloaded from a ship for transporting to the shoreline;

“operational wastes” means all maintenance wastes, cargo associated wastes and cargo residues except residues or wastes from—

(a) oil or oily mixtures,

(b) noxious liquid substances,

(c) non-polluting liquid substances, or

(d) harmful substances in packaged form;

“plastics” includes synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products which may contain toxic or heavy metal residues;

“relevant platform” means a fixed or floating platform which is used in connection with the exploration, exploitation or associated offshore processing of seabed mineral resources;

“renewal survey” has the meaning given in regulation 8(3);

“sea” includes any estuary or arm of the sea;

“Sewage Certificate” means an International Sewage Pollution Prevention Certificate referred to in Regulation 5 of Annex IV;

“ship” means a vessel of any type whatsoever, including a hydrofoil boat, an air-cushion vehicle, a submersible, a floating craft and a fixed or floating platform, which is operating in the marine environment;

“ship in dedicated trades” means a ship which is on a scheduled service on a regular route;

“short international voyage” means an international voyage—

(a) in the course of which a ship is never more than 200 nautical miles from a port or place in which the passengers and crew could be placed in safety, and

(b) which does not exceed 600 nautical miles between the last port of call in the country in which the voyage begins and the last port of call in the voyage before beginning any return voyage, and which on any return voyage does not exceed 600 nautical miles between the port of call in which the ship begins its return voyage and the first port of call in the country in which the voyage began,

and for the purposes of this definition no account is to be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled;

“STCW” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978(8), as amended in 1995 by resolution 1 of the STCW Conference(9) convened at the IMO’s headquarters from 26th June to 7th July 1995; and

“surveyor” means a surveyor of ships, or any other person appointed by a Certifying Authority (other than the Secretary of State) to be a surveyor, and “survey” means a survey carried out by a surveyor.

(2) For the purposes of these Regulations—

(a) subject to paragraph (3), a “discharge”, in relation to sewage, means any release howsoever caused from a ship, and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying, and cognate expressions are to be construed accordingly;

(8) Cmnd. 9266.

(9) Cmnd. 3772.

- (b) “garbage” means all kinds of victual, domestic and operational wastes generated during the normal operation of a ship and liable to be disposed of continuously or periodically, but does not include fresh fish and parts thereof, sewage, or any other substance the disposal of which is prohibited or otherwise controlled under an Annex to the Convention other than Annex V; and
- (c) “sewage” means—
 - (i) drainage and other wastes from any form of toilets and urinals,
 - (ii) drainage from medical premises (including, for example, a dispensary or sick bay) via wash basins, wash tubs and scuppers located in such premises,
 - (iii) drainage from spaces containing living animals, or
 - (iv) other waste waters when mixed with any drainage referred to in sub-subparagraph (i), (ii) or (iii).
- (3) A “discharge” does not include—
 - (a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, signed at London on 13th November 1972⁽¹⁰⁾, as amended by the 1996 Protocol⁽¹¹⁾, or
 - (b) the release of sewage for the purposes of legitimate scientific research into pollution abatement or control.
- (4) For the purposes of these Regulations, an “old ship” means a ship whose date of construction is before 2nd October 1983, and the date of construction of a ship is the date on which the keel of the ship is laid or on which the ship is at a stage of construction at which—
 - (a) construction identifiable with a specific ship has begun, and
 - (b) assembly of that ship has incorporated at least 50 tonnes of structural material or one per cent of the estimated mass of all structural material, whichever is less.
- (5) For the purposes of these Regulations, a “United Kingdom ship” means a ship which—
 - (a) is registered in the United Kingdom, or
 - (b) is not registered under the law of any country but is wholly owned by persons each of whom is—
 - (i) a British Citizen, a British overseas territories citizen or a British Overseas citizen, or
 - (ii) a body corporate which is established under the law of any part of the United Kingdom and has its principal place of business in the United Kingdom.
- (6) In the application of these Regulations to—
 - (a) an air-cushion vehicle, a reference to the master of a ship includes a reference to the captain of that air-cushion vehicle, and
 - (b) a platform, a reference to the master of a ship includes a reference to the manager of that platform.

⁽¹⁰⁾ Cmnd. 5169.

⁽¹¹⁾ Cmnd. 4078.