
STATUTORY INSTRUMENTS

2009 No. 1210

MERCHANT SHIPPING

The Merchant Shipping (Implementation of Ship-Source Pollution Directive) Regulations 2009

<i>Made</i>	- - - -	<i>11th May 2009</i>
<i>Laid before Parliament</i>		<i>11th May 2009</i>
<i>Coming into force</i>	- -	<i>1st July 2009</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by article 3 of the Merchant Shipping (Prevention of Oil Pollution) Order 1983 ^{M1}, articles 3 and 5 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987 ^{M2}, article 2 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996 ^{M3}, sections 85 and 86 of the Merchant Shipping Act 1995 ^{M4} and section 2(2) of the European Communities Act 1972 ^{M5}.

The Secretary of State is a Minister designated ^{M6} for the purposes of section 2(2) of that Act in relation to measures relating to maritime transport.

Marginal Citations

- M1** [S.I. 1983/1106](#). Article 3 was amended by [S.I. 1985/2002](#), [1991/2885](#) and [1993/1580](#).
- M2** [S.I. 1987/470](#). Article 3 was amended by [S.I. 1990/2595](#). Article 5(1) was inserted by [S.I. 1997/2569](#) and amended by [S.I. 1998/254](#).
- M3** [S.I. 1996/282](#).
- M4** [1995 c.21](#). Sections 85 and 86 were amended by sections 8 and 29 of, and Schedule 7 to, the [Merchant Shipping and Maritime Security Act 1997 \(c.28\)](#). Relevant amendments to section 85 were also made by section 2 of the [British Overseas Territories Act 2002 \(c.8\)](#).
- M5** [1972 c.68](#).
- M6** [S.I. 1994/757](#).

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Implementation of Ship-Source Pollution Directive) Regulations 2009 and come into force on 1st July 2009.

Interpretation

2. In these Regulations—

Changes to legislation: There are currently no known outstanding effects for the The Merchant Shipping (Implementation of Ship-Source Pollution Directive) Regulations 2009. (See end of Document for details)

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

“the Directive” means Directive 2005/35/EC of the European Parliament and of the Council of 7th September 2005 on ship-source pollution and on the introduction of penalties for infringements ^{M7}.

Marginal Citations

M7 OJ No L 255, 30.9.2005, p11.

Amendment of section 131 of the Merchant Shipping Act 1995

3.—(1) Section 131 of the Act (discharge of oil from ships into certain United Kingdom waters) is amended as follows.

(2) Before subsection (1) insert—

“(A1) In this section “relevant discharge” means—

(a) a discharge of oil or a mixture containing oil which is made—

(i) from a ship which is an offshore installation, and

(ii) into United Kingdom national waters which are navigable by sea-going ships, or

(b) a discharge of oil or a mixture containing oil which is made—

(i) from a ship which is not an offshore installation, and

(ii) into United Kingdom national waters which are navigable by sea-going ships but which do not form part of the sea.”

(3) In subsection (1)—

(a) for the words from “If any oil” to “seagoing ships, then” substitute “ If there is a relevant discharge ”;

(b) in paragraph (a), omit “if the discharge is from a ship.”; and

(c) in paragraph (b), for “is from a ship but” substitute “ from the ship ”.

(4) In subsection (2) after “any discharge” insert “ from an offshore installation ”.

(5) After subsection (3) insert—

“(3A) In this section “offshore installation” means any mobile or fixed drilling or production platform or any other platform used in connection with the exploration, exploitation or associated offshore processing of sea bed mineral resources.”

Amendment of the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996

^{F1}4.

F1 Reg. 4 revoked (1.3.2019) by The Merchant Shipping (Prevention of Oil Pollution) Regulations 2019 (S.I. 2019/42), reg. 1(1), Sch. Pt. 2 (with regs. 2, 5)

Amendment of the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996

^{F2}5.

F2 Reg. 5 revoked (12.3.2018) by The Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018 (S.I. 2018/68), reg. 1(1), **Sch. Pt. 2** (with reg. 5)

Transitional provision

6. The amendments made by regulation 3 do not apply in relation to any discharge which occurred before the coming into force of these Regulations.

Signed by authority of the Secretary of State for Transport

Department for Transport

Jim Fitzpatrick
Parliamentary Under Secretary of State

Changes to legislation: There are currently no known outstanding effects for the The Merchant Shipping (Implementation of Ship-Source Pollution Directive) Regulations 2009. (See end of Document for details)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive [2005/35/EC](#) of the European Parliament and of the Council of 7th September 2005 on ship-source pollution and on the introduction of penalties for infringements (O.J. No. L 255, 30.9.2005, p.11). That Directive incorporates certain provisions of Annexes I and II to the International Convention for the Prevention of Pollution from Ships 1973 as amended by its Protocol of 1978 (“MARPOL 73/78”) into Community law.

Regulation 3 amends the Merchant Shipping Act 1995 to limit the provisions of section 131 regarding discharges of oil or a mixture containing oil into certain types of water that are not sea.

Regulation 6 contains a transitional provision in relation to the amendments set out in regulation 3.

Regulation 4 makes amendments to the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996. The principal change is to insert new regulations 11A to 11C excepting from the prohibitions in regulations 12, 13 and 16 discharges of oil into the sea arising from damage to a ship or its equipment in certain circumstances. This removes existing defences in relation to certain discharges in those waters and introduces, in line with the Directive, new defences for those discharges which have a more limited range.

Regulation 5 amends the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996 to provide that penalties may be imposed on any person who causes or contributes to a prohibited discharge under certain circumstances.

A full impact assessment of the effect that the instrument will have on the costs of business and the voluntary sector has been prepared. A Transposition Note which sets out how Directive [2005/35/EC](#) is to be transposed into UK law has also been prepared. Both documents are available from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG and are annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk). Copies of each document have been placed in the library of each House of Parliament.

Copies of MARPOL 73/78 may be obtained from the International Maritime Organization at 4 Albert Embankment, London SE1 7SR.

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping (Implementation of Ship-Source Pollution Directive) Regulations 2009.