
STATUTORY INSTRUMENTS

2019 No. 42

**The Merchant Shipping (Prevention
of Oil Pollution) Regulations 2019**

PART 1

General

Citation, commencement, amendments and revocations

1.—(1) These Regulations may be cited as the Merchant Shipping (Prevention of Oil Pollution) Regulations 2019 and come into force on 1st March 2019.

(2) The amendments listed in Part 1 of the Schedule have effect.

(3) The Regulations listed in the first column of the Table in Part 2 of the Schedule are revoked to the extent specified in the third column of that Table.

Transitional provision

2. Except in circumstances determined by the Secretary of State, an IOPP or UKOPP certificate issued or endorsed by an appropriate Certifying Authority⁽¹⁾ under Part 2 of the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996⁽²⁾ which is valid immediately before the day on which these Regulations come into force—

- (a) has effect on and after that date as if it were issued or endorsed under these Regulations; and
- (b) subject to the provisions of these Regulations, continues to be valid until the date of expiry of that certificate.

Interpretation

3.—(1) In these Regulations—

“1995 Act” means the Merchant Shipping Act 1995;

“additional survey” means a survey as prescribed in regulation 6.1.5 of Annex I;

“Arctic waters” has the meaning given in regulation 46.2 of Annex I;

“Annex I” means Annex I to the Convention⁽³⁾;

“annual survey” means a survey as prescribed in regulation 6.1.4 of Annex I;

“Certifying Authority” means the Secretary of State or any person authorised by the Secretary of State in accordance with regulation 9;

(1) The terms “Certifying Authority”, “IOPP certificate” and “UKOPP certificate” are defined in regulation 3.

(2) S.I. 1996/2154, amended by S.I. 1997/1910, S.I. 2000/483, S.I. 2004/303, S.I. 2004/2110, S.I. 2005/1916, S.I. 2009/1210, S.I. 2014/3306, S.I. 2015/664 and S.I. 2016/1025. The relevant provisions in these instruments are revoked by these Regulations.

(3) Regulations for the Prevention of Pollution by Oil. See footnote (f) for further information.

“controlled waters” means the areas of sea specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 2014⁽⁴⁾ as waters within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of the United Nations Convention on the Law of the Sea⁽⁵⁾ for the protection and preservation of the marine environment;

“the Convention” means the International Convention for the Prevention of Pollution from Ships⁽⁶⁾;

“Convention Country” means a country which is a Party to the Convention;

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

“GT” means gross registered tonnage and, in the case of a ship which has alternative gross registered tonnages, the larger of those tonnages is to be taken to be the gross registered tonnage;

“harbour master” includes a dock master, pier master and any person specifically appointed by a harbour authority (within the meaning of section 151(1) of the 1995 Act) for the purpose of enforcing the provisions of these Regulations or of Chapter 2 of Part 6 of that Act;

“IMO” means the International Maritime Organization⁽⁷⁾;

“intermediate survey” means a survey as prescribed in regulation 6.1.3 of Annex I;

“IOPP Certificate” means an International Oil Pollution Prevention Certificate issued in accordance with regulation 7 of Annex I;

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

“offshore installation” means fixed or floating platforms including drilling rigs, floating production, storage and offloading facilities used for the offshore production and storage of oil, and floating storage units used for the offshore storage of produced oil;

“Polar Code” means the International Code for Ships Operating in Polar Waters, consisting of an introduction, parts I-A and II-A and parts I-B and II-B as adopted by IMO Resolutions MSC.385(94) and MEPC.264(68)⁽⁸⁾;

“renewal survey” means a survey as prescribed in regulation 6.1.2 of Annex I;

“RO Code” means the Code for Recognised Organizations adopted by IMO Resolution MEPC.237(65) and incorporate by way of Resolution MEPC.238(65)⁽⁹⁾;

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

(4) S.I. 2014/3306. There are other amending instruments but none is relevant.

(5) This Convention (the “UNCLOS” Convention) was published in Cmnd. 8941, and subsequently in Cmnd. 4524. Hard copies of the Command Papers are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London, SW1A 0PW. A copy of the Convention may be obtained from the United Nations.

(6) This Convention was published in Cmnd. 5748, and amended by the Protocol of 1978 (Cmnd. 7347) and 1997 (Cmnd. 4427). Hard copies of the Command Papers are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London, SW1A 0PW. IMO Resolution MEPC.21(22) introduced Protocol I to the Convention, which was amended by MEPC.68(38). Annex I was revised and replaced by IMO Resolution MEPC.117(52). It is further amended and supplemented by IMO Resolutions MEPC.139(53), 141(54), 154(55), 164(56), 186(59), 187(59), 189(60), 216(63), 237(65), 238(65), 246(66), 248(66), 256(67), 265(68), 266(68) and 276(70). The MEPC Resolutions may be obtained from the IMO Library at www.imo.org/en/MediaCentre/Pages/Default.aspx or in hard copy from the Maritime and Coastguard Agency. The 2017 Consolidated Version of the Convention, which contains all amendments up to the date of publication of this instrument, may be obtained from IMO Publishing: ISBN: 978-92-801-16571.

(7) The IMO is a special agency of the United Nations responsible for shipping safety and security, and the prevention of pollution.

(8) The Polar Code took effect on 1st January 2017 upon entry into force of new Chapter XIV of the International Convention for the Safety of Life at Sea, 1974 (“SOLAS”). In so far as it is relevant to Annex I, it is implemented by regulation 47 of Annex I, inserted (along with other relevant amendments) by IMO Resolution MEPC.265(68). The Polar Code (ISBN: 978-92-801-16281) and SOLAS (ISBN: 978-92-801-15949) are available from IMO Publishing. Copies of the Resolutions are available from the IMO Library at www.imo.org/en/MediaCentre/Pages/Default.aspx or in hard copy from the Maritime and Coastguard Agency.

(9) Resolutions MEPC.237(65) and MEPC.238(65) were adopted on 17th May 2013. The Code is contained in MSC.349(92), adopted on 21st June 2013. The Resolutions and the RO Code are available from the IMO Library at www.imo.org/en/MediaCentre/Pages/Default.aspx or in hard copy from the Maritime and Coastguard Agency.

“surveyor of ships” means a surveyor appointed by a Certifying Authority, and “survey” means a survey carried out by a surveyor;

“UKOPP Certificate” means a United Kingdom Oil Pollution Prevention Certificate issued by a Certifying Authority in accordance with these Regulations; and

“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 a part of the United Kingdom and has its principal place of business in the United Kingdom.

(2) In these Regulations—

(a) the following terms have the meaning given in regulation 1 of Annex I—

- (i) anniversary date;
- (ii) Antarctic area;
- (iii) crude oil;
- (iv) deadweight;
- (v) oil;
- (vi) oil tanker;
- (vii) oily mixture;
- (viii) ppm;
- (ix) special area; and
- (x) tank; and

(b) the words “Administration”, “discharge” and “ship” have the meanings given in article 2 of the Convention.

(3) Any reference to a ship or oil tanker delivered on, before, or after a specified date takes the meaning which corresponds to a ship or oil tanker delivered on, before, or after that specified date in regulation 1.28 of Annex I.

Ambulatory reference

4.—(1) Any reference in these Regulations to a specific provision in the Convention, an Annex of that Convention, the Polar Code or the RO Code is to be construed as—

- (a) a reference to the provision in that instrument as modified from time to time; and
- (b) if the instrument is replaced by another instrument, as a reference to the provision in that other instrument.

(2) For the purposes of paragraph (1)(a), the Convention is modified if omissions, additions or other alterations to the text take effect in accordance with article 16 of the Convention.

(3) A modification to, or replacement of—

- (a) the Convention by virtue of paragraph (2); or
- (b) the Polar Code by virtue of paragraph (4)(a),

has effect at the time that such modification or replacement comes into force in accordance with Article 16(8) of the Convention.

- (4) For the purposes of paragraph (1) the Polar Code is modified if—
- (a) amendments to the Introduction and Chapter 2 of Part II-A of that Code are adopted, brought into force and take effect in accordance with article 16 of the Convention as applicable to amendments to an Annex to that Convention; and
 - (b) amendments to Part II-B of that Code are adopted by the Marine Environment Protection Committee in accordance with the rules of procedure which apply to that Committee.
- (5) For the purposes of paragraph (1)—
- (a) Parts 1 and 2 of the RO Code are modified if omissions, additions or other alterations to the text take effect in accordance with Article 16 of the Convention;
 - (b) Part 3 of the RO Code is modified if omissions, additions or other alterations to the text are adopted by a Resolution of the Marine Environment Protection Committee in accordance with the rules of procedure which apply to that Committee; and
 - (c) any modifications referred to in sub-paragraph (a) or (b) adopted by a Resolution of the Marine Safety Committee and the Marine Environment Protection Committee must be identical and come into force, or take effect, at the same time, and such modification has effect at the time specified in any Resolution described in sub-paragraph (c).

Application

- 5.—(1) Subject to paragraphs (2) and (3), these Regulations and the Convention apply to—
- (a) all United Kingdom ships, wherever they may be; and
 - (b) all non-United Kingdom ships within United Kingdom waters⁽¹⁰⁾.
- (2) These Regulations and the Convention do not apply to any—
- (a) warship;
 - (b) naval auxiliary; or
 - (c) other ship owned or operated by the State and used, for the time being, only on government non-commercial service.
- (3) Subject to paragraph (2), regulations 25 and 26 apply to the discharge into the sea from any ship which has caused, or is likely to cause, pollution within United Kingdom waters or controlled waters.
- (4) Subject to paragraph (5), regulations 16, 26.4, 29 to 32, 34 and 36 of Annex I apply to the construction and operation of cargo spaces within ships other than oil tankers where such spaces are constructed for and used to carry oil in bulk of an aggregate capacity of 200 cubic metres or more.
- (5) Where the aggregate capacity of a cargo space referred to in paragraph (4) is less than 1,000 cubic metres, regulation 34.6 of Annex I applies instead of regulations 29, 31 and 32 of that Annex.

Compliance with Survey and Certification Requirements

- 6.—(1) Subject to any exemption conferred by or under these Regulations, a ship must not be enabled to—
- (a) proceed, or to attempt to proceed, to sea; or
 - (b) (if it is already at sea) remain at sea,
- unless the requirements in paragraph (2) are met.
- (2) The requirements are that the ship—

(10) “United Kingdom waters” is defined in section 313(2)(a) of the Merchant Shipping Act 1995.

- (a) has been surveyed in accordance with the requirements of these Regulations which apply to that ship; and
- (b) is the subject of a valid IOPP Certificate or, in the case of a ship not engaged in international voyages, a UKOPP Certificate.

Exemptions

7.—(1) The Secretary of State may exempt a ship which has constructional features which render the application of any of the provisions of—

- (a) Chapters 3 and 4 of Annex I; or
- (b) section 1.2 of part II-A of the Polar Code,

relating to construction or equipment unreasonable or impractical, provided the Secretary of State is satisfied that the construction and equipment of any such ship provides equivalent protection from pollution by oil, having regard to the service for which that ship is intended.

(2) The particulars of any exemption granted under paragraph (1) must be indicated in the IOPP or UKOPP certificate issued under regulation 12 or 13.

(3) Subject to paragraph (5) the Secretary of State may exempt any ship or any description of ship from any of the provisions of these Regulations.

(4) An exemption by the Secretary of State is valid only if given in writing and may be—

- (a) given subject to such conditions and limitations as the Secretary of State may specify; and
- (b) altered or cancelled by a notice given in writing by the Secretary of State.

(5) An exemption under paragraph (3) may be granted only if the exemption is compatible with requirements under Annex I.

(6) In this regulation “in writing” includes the provision of such communication by electronic mail, facsimile or similar means which are capable of producing a document containing the text of any communication.

Equivalent

8.—(1) Subject to paragraph (2), any fitting, material, appliance or apparatus may be fitted in a ship as an alternative to one that complies with Annex I if it has been approved by the Secretary of State and—

- (a) the owner or master of the ship has made an application to the Secretary of State for permission to fit the fitting, material, appliance or apparatus to the ship;
- (b) a surveyor—
 - (i) is satisfied that the fitting, material, appliance or apparatus is at least as effective as that required by Annex I; and
 - (ii) has endorsed the application to the Secretary of State to that effect; and
- (c) the fitting, material, appliance or apparatus is fitted to the ship in accordance with any conditions or limitations set out in the approval and is used and operated in accordance with any such conditions or limitations.

(2) Paragraph (1) does not permit the substitution of operational methods to control the discharge of oil as being equivalent to the design and construction features prescribed by Annex I.

(3) For the purposes of these Regulations a fitting, material, appliance or apparatus fitted to a ship as an alternative to any of the requirements in Annex I meets the requirements of Annex I providing it has been approved in accordance with the procedure specified in paragraph (1).

Authorisation of Certifying Authorities

9. A person authorised by the Secretary of State as a Certifying Authority must be authorised in accordance with—

- (a) the Convention; and
- (b) the RO Code⁽¹¹⁾.

⁽¹¹⁾ The requirements of the RO Code are implemented by way of Regulation (EC) No. 391/2009 of the European Parliament and of the Council of 23rd April 2009 on common rules and standards for ship inspection and survey organisations, and related tertiary legislation.