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STATUTORY INSTRUMENTS

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**2019 No. 940**

**MARINE POLLUTION**

**The Merchant Shipping (Prevention of Air Pollution from Ships) (Miscellaneous Amendments) Regulations 2019**

<i>Made</i>	- - - -	<i>21st May 2019</i>
<i>Laid before Parliament</i>		<i>22nd May 2019</i>
<i>Coming into force</i>	- -	<i>30th June 2019</i>

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup>, section 302 of the Merchant Shipping Act 1995<sup>(2)</sup> and articles 2 and 3 of the Merchant Shipping (Prevention of Air Pollution from Ships) Order 2006<sup>(3)</sup> makes the following Regulations.

In accordance with section 302(1) of the Merchant Shipping Act 1995, regulation 4 of these Regulations is made with the consent of the Treasury.

**Citation and Commencement**

1. These Regulations may be cited as the Merchant Shipping (Prevention of Air Pollution from Ships) (Miscellaneous Amendments) Regulations 2019 and come into force on 30th June 2019.

**Amendment of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008**

2.—(1) The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008<sup>(4)</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “IAPP Certificate” insert—

““IEE Certificate” means an international energy efficiency certificate issued in accordance with the Convention;”;

(b) after the definition of “sea” insert—

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(1) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).  
(2) 1995 c.21.  
(3) S.I.2006/1248.  
(4) S.I.2008/2924 amended by S.I.2010/895, there are other amending instruments but none is relevant.

“SEEMP” means a ship energy efficiency management plan described in regulation 25A;”;

(c) after the definition of “sludge oil” insert—

“Statement of Compliance” means a statement of compliance relating to fuel oil consumption reporting issued in accordance with regulation 6.7 of Annex VI;”.

(3) In regulation 3 (application and exemptions)—

(a) after paragraph (2) insert—

“(2A) Regulations 11A, 12A and 13A apply to ships of 400 GT or above.”;

(b) after paragraph (9) insert—

“(9A) Schedule 4 applies to ships of 5,000 GT or above.”.

(4) After regulation 11(issue of appropriate certificate by a certifying authority) insert—

**“Issue of IEE certificates by a Certifying Authority**

**11A.**—(1) Subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2018(5), on being notified by a surveyor that the surveyor—

(a) has carried out an initial survey, or a general or partial survey, in respect of a ship to which this regulation applies, and

(b) is satisfied at the date of the survey that—

(i) the ship’s attained EEDI is in accordance with Chapter 4 of Annex VI; and

(ii) the ship’s SEEMP is on board,

a Certifying Authority must issue an IEE Certificate in respect of that ship.

(2) Where the conditions in paragraphs (3) and (4) are met a Certifying Authority must issue an IEE Certificate in respect of a ship.

(3) The first condition is that the ship has become a ship to which this regulation applies on transfer from the flag of another Contracting Government.

(4) The other conditions are—

(a) an IEE Certificate has been issued in respect of the ship and was still valid immediately before the date of transfer,

(b) the Certifying Authority has caused a survey to be carried out in respect of the ship, and

(c) the Certifying Authority is satisfied that—

(i) the ship’s attained EEDI is in accordance with Chapter 4 of Annex VI;

(ii) the ship’s SEEMP is on board; and

(iii) no change has been made to the equipment, systems, fittings, arrangements or material covered by the last survey carried out under regulation 5.4 of Annex VI without the approval of the Contracting Government in question.

(5) An IEE Certificate issued under this regulation must be in English and in the form set out in Appendix 1 to Annex VI.

(6) In this regulation—

(a) “attained EEDI” means the attained energy efficiency design index relating to a ship calculated in accordance with Regulation 20 of Annex IV,

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(5) S.I.2018/1104, amended by S.I. 2019/42 there are other amending instruments but none is relevant.

- (b) “initial survey” means a survey required by paragraph 4.1 of Regulation 5 of Annex VI, and
- (c) “general or partial survey” means a survey required by paragraph 4.2 of Regulation 5 of Annex VI.”.

(5) After regulation 12 (issue of IAPP certificates by another government in respect of United Kingdom ships) insert—

**“Issue of IEE Certificates by another government in respect of United Kingdom ships**

**12A.**—(1) The Secretary of State may request a Contracting Government—

- (a) to survey a ship to which this regulation applies, and
- (b) to—
  - (i) issue, or authorise the issue of, or
  - (ii) endorse, or authorise the endorsement of,

an IEE Certificate, in accordance with the requirements of Annex VI, in respect of that ship if the Contracting Government is satisfied that the ship complies with the requirements of Annex VI.

(2) Where an IEE Certificate is issued pursuant to paragraph (1)—

- (a) the Secretary of State is to be treated as the Certifying Authority in relation to it, and
- (b) any reference in these Regulations to the Certifying Authority that issued the certificate is to be treated as a reference to the Secretary of State.”.

(6) After regulation 13 (issue of IAPP Certificates in respect of ships which are not United Kingdom ships) insert—

**“Issue of IEE Certificates in respect of ships which are not United Kingdom ships**

**13A.**—(1) When requested to do so by a Contracting Government, the Secretary of State—

- (a) may cause a survey to be carried out in respect of a ship to which this regulation applies, and
- (b) must, subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2018, issue in respect of that ship an IEE Certificate, or endorse the IEE Certificate, in accordance with the requirements of Annex VI, if the Secretary of State is satisfied that the requirements of Annex VI are complied with.

(2) An IEE Certificate issued pursuant to paragraph (1) must—

- (a) be in English in the form set out in Appendix 1 to Annex VI,
- (b) contain a statement that it has been so issued, and
- (c) have the same effect as if it had been issued by the Contracting Government who made the request referred to in paragraph (1) and not by the Secretary of State.

(3) The Secretary of State must send, as soon as possible, to the Contracting Government who made the request referred to in paragraph (1) a copy of—

- (a) the IEE Certificate issued pursuant to that paragraph, and
- (b) the survey report.

(4) The Secretary of State must not issue an IEE Certificate in respect of a ship which—

- (a) is registered in a country whose Government is not a Contracting Government, or

(b) is not so registered, but is entitled to fly the flag of a country whose Government is not a Contracting Government.”.

(7) After regulation 19 (prohibition on non United Kingdom ships proceeding to sea without an IAPP Certificate) insert—

**“Prohibition on non United Kingdom ships proceeding to sea without an IEE Certificate**

**19A.** A ship to which this paragraph applies must not proceed to sea from a port in the United Kingdom unless an IEE Certificate has been issued in respect of that ship and is still valid.”.

(8) After regulation 25 (fuel oil quality) insert—

**“Energy efficiency of ships**

**25A.—**(1) A ship energy efficiency management plan (“SEEMP”) is a plan that meets the requirements of regulation 22 of Annex VI, any guidelines adopted by the IMO and any requirements specified in a Merchant Shipping Notice.

(2) Each ship must have a SEEMP which is specific to that ship.

(3) The SEEMP must be kept on board the ship at all times.

(4) Schedule 4 (collection and reporting of fuel consumption data) has effect.”.

(9) In regulation 29 (power for harbour master to detain), in paragraph (1), after “Schedule 2A” insert “or paragraph 10 of Schedule 4”.

(10) In regulation 32 (offences)—

(a) in paragraph (1)(a), after “Schedule 2A” insert “or paragraph 10 of Schedule 4”,

(b) in paragraph (1)(d), for “or 19” substitute “, 19 or 19A”.

(11) After Schedule 3 (information to be included in a bunker delivery note) insert Schedule 4 as set out in the Schedule to these Regulations.

**Amendment of the Merchant Shipping (Port State Control) Regulations 2011**

**3.—**(1) The Merchant Shipping (Port State Control) Regulations 2011<sup>(6)</sup> are amended as follows.

(2) In regulation 2 (interpretation of part 1), in the definition of “Conventions”, for paragraph (b) substitute—

“(b) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocols of 1978 and 1997 relating thereto (MARPOL);”.

**Amendment of the Merchant Shipping Fees Regulations 2018**

**4.—**(1) The Merchant Shipping Fees Regulations 2018<sup>(7)</sup> are amended as follows.

(2) In Schedule 1 (fees under the Merchant Shipping Act 1995), in the table in paragraph 5 (fees for inspections etc.), in the entry in section J (prevention and control of pollution) relating to the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008, after “2016/1025” in the third column insert “2019/940”.

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<sup>(6)</sup> S.I.2011/2601, amended by S.I. 2017/925 and S.I.2017/945.

<sup>(7)</sup> S.I.2018/1104, amended by S.I. 2019/42 there are other amending instruments but none is relevant.

Signed by authority of the Secretary of State for Transport

21st May 2019

*Nusrat Ghani*  
Parliamentary Under Secretary of State  
Department for Transport

We consent to the making of these Regulations

20th May 2019

*David Rutley*  
*Craig Whittaker*  
Two of the Lords Commissioners in Her  
Majesty's Treasury

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE

Regulation 2(11)

New Schedule to be inserted in the Merchant Shipping  
(Prevention of Air Pollution from Ships) Regulations 2008

### “SCHEDULE 4

Regulation 25A

Collection and reporting of fuel consumption data

#### **Interpretation**

1. Expressions used in this Schedule have the same meaning as in Annex VI.

#### **Application**

2. This schedule applies to ships of 5,000 GT and above.

#### **Ship Energy Efficiency Management Plan**

3. A ship’s SEEMP must include a description of the methodology that will be used to collect the data required by regulation 22A.1 of Annex VI which will be used to report the data to a Certifying Authority.
4. The methodology referred to in paragraph 3 must be approved by a Certifying Authority before the submission of the data.

#### **Collection and reporting of ship fuel oil consumption data**

5. The owner of a ship must collect the data, specified in Appendix IX of Annex VI, for each year or part of a year, as appropriate, according to the methodology included in the SEEMP. The owner must submit the data to a Certifying Authority for verification in accordance with the ship’s SEEMP.

#### **Verification of Data**

6. Upon receipt of the data collected pursuant to paragraph 5 the Certifying Authority must determine whether the data has been reported in accordance with regulation 22A of Annex VI.

#### **Statement of Compliance**

7. If the data has been reported in compliance with Annex VI, the Certifying Authority must issue a Statement of Compliance relating to the fuel oil consumption of the ship no later than five months after the beginning of the year in which the data was reported.
8. The Statement of Compliance must be drawn up in accordance with the form in Appendix X to Annex VI.
9. The Statement of Compliance is valid for the year in which it is issued and for the first five months of the following year.

#### **Statement of Compliance to be kept on Board Ship**

10. The owner and master of the ship to which the Statement of Compliance relates must ensure that it is kept on board that ship during the period while the Statement of Compliance is valid.

## Reporting of Data

11. The owner of a ship must report the data that has been verified in accordance with paragraph 6 to the MCA.”

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the implementation of the provisions of Annex VI of the International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocols of 1978 and 1997 as they relate to the requirements for ships to be issued with an international energy efficiency certificate (“IEE Certificate”) and a statement of compliance relating to fuel oil consumption (“Statement of Compliance”).

The Regulations amend the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924) to impose a requirement for ships of more than 400 gross tonnage to be issued with an IEE Certificate. The regulations also require ships of more than 5,000 gross tonnage to be issued with a Statement of Compliance. The Statement of Compliance must be carried on board the ship and failure to carry the relevant certificate is a criminal offence.

The Regulations also make consequential amendment to the Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601) and the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104).

The International Convention for the Prevention of Pollution from Ships 1973 and the Protocols of 1978 and 1997 may be obtained in copy from the International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR and are available on the Foreign and Commonwealth Office (FCO) treaties database (<http://treaties.fco.gov.uk/treaties/treaty.htm>). The text of the Resolutions amending the Convention and Protocols may be obtained from the IMO or found on the FCO treaties database (<http://treaties.fco.gov.uk/treaties/treaty.htm>).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An Explanatory Memorandum has been produced for this instrument and is published alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).