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STATUTORY INSTRUMENTS

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**2022 No. 737**

**The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022**

**PART 1**

**General**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022 and come into force on 29th July 2022.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

**Interpretation**

2. In these Regulations—

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

“active substance” means a substance or organism, including a virus or a fungus, that has a general or specific action on or against harmful aquatic organisms;

“ballast water” means water with its suspended matter taken on board a ship to control the trim, list, draught, stability or stresses of the ship;

“ballast water capacity” means the total volumetric capacity of any tanks, spaces or compartments on a ship used for carrying, loading or discharging ballast water, including any multi-use tank, space or compartment designed to allow carriage of ballast water;

“ballast water management” means mechanical, physical, chemical or biological processes, used singly or in combination, to remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms within ballast water or sediments;

“ballast water management plan” is a plan which meets the requirements of regulation 9 (ballast water management plan);

“ballast water management system” means any system which processes ballast water to meet the standard in regulation 13 (ballast water and sediment treatment standard) and—

(a) includes—

- (i) ballast water treatment equipment;
- (ii) its associated control and monitoring equipment;
- (iii) piping arrangements as specified by the manufacturer; and
- (iv) its sampling facilities;

(b) does not include a ship's ballast water fittings that would be required if a ballast water management system was not fitted;

“ballast water record book” is a record book which meets the requirements of regulation 10(1) (ballast water record book);

“ballast water tank” means any tank, space or compartment on board a ship used for carrying ballast water;

“BWMS Type Approval Certificate” means a certificate which—

(a) contains the information; and

(b) is in the form,

specified in section 12 of Merchant Shipping Notice MSN 1908 (M+F)(1);

“Certifying Authority” has the meaning given in regulation 3 (Certifying Authorities);

“Contracting State” means a State which has consented to be bound by the Convention;

“controlled waters” means the areas of sea specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 2014(2) 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(3) (Protection and Preservation of the Marine Environment);

“the Convention” means the International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004, including its Annex and Appendices(4);

“discharge”, in relation to ballast water or sediments, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;

“exchange” means a process involving the replacement of water in a ballast water tank using the sequential method or pump-through method which complies with regulations 11 (location of ballast water exchange) and 12 (ballast water exchange standard);

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

“foreign State” means a State other than the United Kingdom;

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

“harmful aquatic organisms” means aquatic organisms which, if introduced into the sea including estuaries, or into fresh water courses, may create hazards to the environment, human health, property or resources, impair biological diversity or interfere with other legitimate uses of such areas;

“high seas” means all waters beyond—

(a) United Kingdom waters and controlled waters; and

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- (1) Merchant Shipping Notices are published by the Maritime and Coastguard Agency (“MCA”). Copies of MSN 1908 (M+F) can be obtained free of charge at [www.gov.uk](http://www.gov.uk) or in hard copy from the MCA of Spring Place, 105 Commercial Road, Southampton SO15 1EG.
  - (2) [S.I. 2014/3306](#).
  - (3) This Convention (the “UNCLOS” Convention) was originally published in Cmnd. 8941, and subsequently in Cm. 4524. A hard copy of Cm. 4524 is available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London, SW1A 0PW (catalogue number: HL/PO/JO/10/11/3186/287). An electronic copy of Cm. 4524 can be found at <https://treaties.fco.gov.uk/a/web/pdfopener?md=1&did=69421>. A copy of the UNCLOS Convention can be obtained from the United Nations (email [doalos@un.org](mailto:doalos@un.org)), and at [www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf).
  - (4) CP 557. This Convention was adopted on 13th February 2004 by the International Conference on Ballast Water Management for Ships, 2004, convened by the International Maritime Organization. It entered into force on 8th September 2017 and has been amended by IMO Resolutions MEPC.296(72), MEPC.297(72), MEPC.299(72), and MEPC.325(75). The Convention (ISBN 978-92-801-60963) is available from IMO Publishing, 4 Albert Embankment, London SE1 7SR, [www.imo.org/publications](http://www.imo.org/publications); email: [sales@imo.org](mailto:sales@imo.org); telephone: 0207 735 7611. IMO Resolutions are available from the IMO Library, also of 4 Albert Embankment, London SE1 7SR.

(b) the internal waters, archipelagic waters, territorial sea and the exclusive economic zone of any foreign State;

“IBWM Certificate” means an International Ballast Water Management Certificate, containing the information specified in Schedule 2 to Merchant Shipping Notice MSN 1908 (M+F), issued—

(c) by a Certifying Authority in accordance with Part 6 (survey and certification of ships); or

(d) by a Contracting State in accordance with Regulation E-2 of the Convention;

“IMO” means the International Maritime Organization<sup>(5)</sup>;

“in writing” or “written” include the provision of a written communication by electronic mail, facsimile or similar means which are capable of producing a document containing the text of any communication;

“Merchant Shipping Notice” means a notice described as such and issued by the Secretary of State, 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;

“nominated body” means a person designated as a nominated body under regulation 15(1) (designation of nominated bodies);

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

(e) transferred between ships;

(f) loaded onto a ship after having been transported from the shoreline; or

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

“organism” includes pathogens;

“pump-through method” means a process by which replacement ballast water is pumped into a ballast water tank while ballast water is simultaneously discharged from the tank;

“reception facility” means a facility that is capable of safely disposing of ballast water or sediments in a manner that does not impair or damage the environment, human health, property or resources of the United Kingdom or foreign States;

“resources” means any aquatic resources which may be commercially exploited;

“sediment” means matter settled out of ballast water within a ship;

“sequential method” means a process by which a ballast water tank is first emptied and then re-filled with replacement ballast water;

“ship” means a vessel of any type whatsoever operating in the aquatic environment and includes submersibles, floating craft, floating platforms, floating storage units and floating production storage and offloading units;

“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;

“treatment” means mechanical, physical, chemical or biological processes, used singly or in combination, to ensure that any ballast water or sediments discharged from a ship meet the standard in regulation 13 (ballast water and sediment treatment standard); and

“United Kingdom ship” means a ship which—

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

- (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.

### **Certifying Authorities**

**3.—**(1) In these Regulations, “Certifying Authority” means the Secretary of State or any person authorised by the Secretary of State.

(2) Authorisation under paragraph (1) may be given conditionally or unconditionally and is subject to paragraph (4).

(3) Without prejudice to the generality of paragraph (2), conditions may impose limitations on any person’s authorisation relating to—

- (a) individual ships;
- (b) classes of ships;
- (c) the extent of any survey to be carried out by that person.

(4) The Secretary of State may specify in relation to an individual case or to a class of cases, that for the purpose of these Regulations a survey, or part of a survey, may only be carried out by the Secretary of State and not by another Certifying Authority.

(5) A Certifying Authority, other than the Secretary of State, is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and its property is not to be regarded as property of, or held on behalf of, the Crown.

### **Application**

**4.—**(1) Subject to paragraphs (2) and (3), these Regulations apply to—

- (a) a United Kingdom ship wherever it may be; and
- (b) any other ship while it is in United Kingdom waters or controlled waters.

(2) These Regulations do not apply to—

- (a) a ship which is not designed or constructed to carry ballast water;
- (b) a ship which operates only in waters under the jurisdiction of a single Contracting State;
- (c) a ship which operates only in waters under the jurisdiction of a single Contracting State and on the high seas;
- (d) a warship, naval auxiliary or other ship owned or operated by a State and used only in government, non-commercial service; and
- (e) a ship which carries permanent ballast water in sealed tanks, which is not subject to discharge.

(3) Part 4 (sediment reception facilities) applies to any shipyard within a harbour in the United Kingdom in which—

- (a) the cleaning or repair of ballast water tanks occurs; and
- (b) the ballast water tanks in question are those of ships to which these Regulations apply.

(4) In paragraph (2) “the jurisdiction of a single Contracting State” means, in the case of the United Kingdom, United Kingdom waters or controlled waters.