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STATUTORY INSTRUMENTS

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**2023 No. 384**

**The Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2023**

**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(1) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the definition of “annual survey” for “regulation 5(3)” substitute “regulation 7(2) and described in Regulation 5.1.4 of Annex VI”;

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

““intermediate survey” means a survey carried out under regulation 8 and described in Regulation 5.1.3 of Annex VI.”;

(c) after the definition of “new installation” insert—

““non-conventional propulsion” has the meaning given by Regulation 2.2.19 of Annex VI.”;

(d) after the definition of “platform” insert—

““Polar Code” has the meaning given by Regulation 2.2.21 of Annex VI(2);

“prescribed fee” means any fee due under the Merchant Shipping (Fees) Regulations 2018(3);”;

(e) after the definition of “Protocol of 1997” insert—

““relevant IMO Guidelines(4)” means—

(a) in regulation 25A and paragraph 6D of Schedule 4, the 2022 Guidelines for the development of a ship energy efficiency management plan (SEEMP), adopted on 10th June 2022 by Resolution MEPC.346(78);

(b) in paragraph 6A of Schedule 4, the 2022 Guidelines on operational carbon intensity indicators and the calculation methods (CII Guidelines, G1), adopted on 10th June 2022 by Resolution MEPC.352(78);

(c) in paragraph 6C of Schedule 4—

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(1) [S.I. 2008/2924](#) as amended by [S.I. 2010/895](#), [2010/3035](#), [2011/3056](#), [2014/3076](#), [2016/1025](#), [2019/311](#), [2019/940](#) and [2021/1108](#).

(2) The International Code for Ships Operating in Polar Waters, known as “the Polar Code”, was adopted by IMO Resolutions MSC.385(94) and MEPC.264(68) and took effect on 1st January 2017 upon entry into force of new Chapter XIV of the International Convention on the Safety of Life at Sea. IMO Resolution MEPC.265(68) amended the Convention (“MARPOL”) by incorporating into it the provisions of the Polar Code relating to the prevention of pollution. The Polar Code (ISBN 978-92-801-16281) is available from IMO Publishing, 4 Albert Embankment, London SE1 7SR, [www.imo.org/publications](http://www.imo.org/publications); [sales@imo.org](mailto:sales@imo.org); telephone 0207 7357611. IMO Resolutions are available from the IMO at the same postal address.

(3) [S.I. 2018/1104](#), as amended by [S.I. 2019/42](#) and [2019/940](#). There are other amending instruments but none is relevant.

(4) Copies of the relevant IMO Guidelines and IMO Resolutions are available from IMO Publishing, 4 Albert Embankment, London SE1 7SR, [www.imo.org/publications](http://www.imo.org/publications); [sales@imo.org](mailto:sales@imo.org); telephone 0207 7357611.

- (i) the 2021 Guidelines on the operational carbon intensity reduction factors relative to reference lines (CII reduction factors Guidelines, G3), adopted on 17th June 2021 by Resolution MEPC.338(76);
  - (ii) the 2022 Guidelines for administration verification of ship fuel oil consumption data and operational carbon intensity, adopted on 10th June 2022 by Resolution MEPC.348(78);
  - (iii) the 2022 Guidelines on operational carbon intensity indicators and the calculation methods (CII Guidelines, G1) adopted on 10th June 2022 by Resolution MEPC.352(78);
  - (iv) the 2022 Guidelines on the reference lines for use with operational carbon intensity indicators (CII reference lines Guidelines, G2) adopted on 10th June 2022 by Resolution MEPC.353(78);
  - (v) the 2022 Guidelines on the operational carbon intensity rating of ships (CII rating Guidelines, G4), adopted on 10th June 2022 by Resolution MEPC.354(78);
  - (vi) the 2022 Interim Guidelines on correction factors and voyage adjustments for CII calculations (CII Guidelines, G5) adopted on 10th June 2022 by Resolution MEPC.355(78);
- (d) in regulation 2A, any of the guidelines mentioned in paragraphs (a) to (c) of this definition;”;
- (f) in the definition of “relevant offence”—
- (i) after “regulation” insert “11ZA(1) or (4), 13B(4), 19A(1) or (4),” and
  - (ii) after “25(3A) or (3B)” insert “, 25A(2) or (3), 25B(1)”;
- (g) at the end of the definition of “renewal survey” insert “and described in Regulation 5.1.2 of Annex VI”;
- (h) for the definition of “Statement of Compliance” substitute—
- ““Statement of Compliance” means a statement of compliance relating to fuel oil consumption reporting and operational carbon intensity rating, issued in accordance with Regulation 6.6 or 6.7 of Annex VI;”.
- (3) For regulation 2A (ambulatory reference), substitute—

**“Ambulatory reference**

**2A.—(1)** Any reference in these Regulations to the Convention, an Annex to the Convention, the Polar Code or relevant IMO Guidelines is to be construed—

- (a) as a reference to the Convention, an Annex to the Convention, the Polar Code or relevant IMO Guidelines as modified from time to time; and
  - (b) as, if the Convention, an Annex to the Convention, the Polar Code or relevant IMO Guidelines are replaced, a reference to the replacement.
- (2) for the purposes of paragraph (1)—
- (a) the Convention, an Annex to the Convention or the Polar Code is modified or replaced if a modification or replacement takes effect in accordance with Article 16 (amendments) of the Convention;

- (b) relevant IMO Guidelines are modified or replaced if a modification or replacement takes effect in accordance with the 1948 Convention on the International Maritime Organisation<sup>(5)</sup>.
- (3) A modification or replacement of the Convention, and Annex to the Convention or the Polar Code has effect at the time such modification or replacement comes into force in accordance with Article 16 of the Convention.
- (4) A modification or replacement of relevant IMO Guidelines has effect at the time such modification or replacement comes into force in accordance with the terms of the Resolution of the Maritime Environment Protection Committee of the IMO under which it is adopted.”.
- (4) In regulation 3 (application and exemptions)—
  - (a) for paragraph (2A) substitute—
    - “(2A) Subject to paragraph (2B), regulations 11ZA, 11A and 13B apply to a ship—
      - (a) of 400 GT or above;
      - (b) which is a United Kingdom ship;
      - (c) which falls within paragraph 2.5, 2.7, 2.9, 2.11, 2.14 to 2.16, 2.22, or 2.26 to 2.29 of Regulation 2 of Annex VI; and
      - (d) which is engaged on voyages beyond the seaward limit of the United Kingdom territorial sea.
    - (2B) Regulations 11ZA, 11A and 13B do not apply where the ship—
      - (a) is not propelled by mechanical means;
      - (b) has non-conventional propulsion, unless it is a ship which falls within paragraph 2.11 or 2.16 of Regulation 2 of Annex VI; or
      - (c) is a category A ship as defined in the Polar Code.”;
  - (b) after paragraph (3) insert—
    - “(3A) Regulation 12A applies to a ship to which regulation 11A applies, if it is engaged in voyages to ports or off-shore terminals under the jurisdiction of a Contracting Government.”;
  - (c) after paragraph (4) insert—
    - “(4A) Subject to paragraph (4B), regulation 13A applies to a ship—
      - (a) of 400 GT or above;
      - (b) which is—
        - (i) registered in a country whose Government is a Contracting Government, or
        - (ii) not so registered, but entitled to fly the flag of such a country;
      - (c) which falls within paragraph 2.5, 2.7, 2.9, 2.11, 2.14 to 2.16, 2.22, or 2.26 to 2.29 of Regulation 2 of Annex VI;
      - (d) which is engaged in voyages to ports or off-shore terminals under the jurisdiction of a Contracting Government; and
      - (e) which is in United Kingdom waters or controlled waters.
    - (4B) Regulation 13A does not apply where the ship—

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(5) The Convention on the International Maritime Organisation (originally known as the Convention on the Inter-Governmental Maritime Consultative Organisation) was adopted by the United Nations Maritime Conference in Geneva on 6th March 1948. Copies of the Convention are available from IMO Publishing, 4 Albert Embankment, London SE1 7SR, [www.imo.org/publications](http://www.imo.org/publications); [sales@imo.org](mailto:sales@imo.org); telephone 0207 7357611.

- (a) is a United Kingdom ship;
  - (b) is not propelled by mechanical means;
  - (c) has non-conventional propulsion, unless it is a ship which falls within paragraph 2.11 or 2.16 of Regulation 2 of Annex VI; or
  - (d) is a category A ship as defined in the Polar Code”.
- (d) after paragraph (8) insert—
- “(8A) Subject to paragraph (8B), regulation 19A applies to a ship—
    - (a) of 400 GT or above;
    - (b) which is—
      - (i) registered in a country whose Government is a Contracting Government,  
or
      - (ii) not so registered, but entitled to fly the flag of such a country;
    - (c) which falls within paragraph 2.5, 2.7, 2.9, 2.11, 2.14 to 2.16, 2.22, or 2.26 to 2.29 of Regulation 2 of Annex VI; and
    - (d) which is in United Kingdom waters or controlled waters.
  - (8B) Regulation 19A does not apply where the ship—
    - (a) is a United Kingdom ship;
    - (b) is not propelled by mechanical means;
    - (c) has non-conventional propulsion, unless it is a ship which falls within paragraph 2.11 or 2.16 of Regulation 2 of Annex VI; or
    - (d) is a category A ship as defined in the Polar Code.”;
- (e) after paragraph (9A) insert—
- “(9AA) Subject to paragraph (9AB), regulation 25A applies to a ship—
    - (a) of 400 GT or above;
    - (b) propelled by mechanical means; and
    - (c) which is not a platform.
  - (9AB) Regulation 25A does not apply where the ship is a United Kingdom ship which is engaged solely on voyages within the seaward limit of the United Kingdom territorial sea.
  - (9AC) Subject to paragraph (9AD), regulation 25B applies to a ship—
    - (a) of 5,000 GT or above;
    - (b) which is—
      - (i) registered in a country whose Government is a Contracting Government,  
or
      - (ii) not so registered, but entitled to fly the flag of such a country;
    - (c) propelled by mechanical means; and
    - (d) which is not a platform.
  - (9AD) Regulation 25B does not apply where the ship is a United Kingdom ship which is engaged solely on voyages within the seaward limit of the United Kingdom territorial sea.”;
- (f) for paragraph (9B) substitute—
- “(9B) Schedule 4 applies to a ship—

- (a) of 5,000 GT or above;
- (b) which is a United Kingdom ship;
- (c) propelled by mechanical means;
- (d) which is not a platform; and
- (e) which is engaged on voyages beyond the seaward limit of the United Kingdom territorial sea.”.

(5) In regulations 11(1) (issue of appropriate certificate by a Certifying Authority), 11A(1) (issue of IEE Certificates by a Certifying Authority), 13(1)(b) (issue of IAPP Certificates in respect of ships which are not United Kingdom ships) and 13A(1)(b) (issue of IEE Certificates in respect of ships which are not United Kingdom ships), for “any fee due under the Merchant Shipping (Fees) Regulations 2018” substitute “the prescribed fee”.

(6) After regulation 11 insert—

**“Requirement for IEE Certificate**

**11ZA.**—(1) A ship to which this regulation applies must not—

- (a) be put into service, or
- (b) if it is already in service, continue in service,

on or at any time after the date specified in paragraph (2), unless the requirements set out in paragraph (3) are met.

(2) The date applicable to the ship is—

- (a) the date of the ship’s initial survey,
- (b) the date of any general or partial survey, or
- (c) in a case where sub-paragraph (a) does not apply and no such general or partial survey has been carried out, the date of the ship’s first annual survey, first intermediate survey or first renewal survey,

to which the ship is subject on or after 24th April 2023.

(3) The requirements referred to in paragraph (1) are that—

- (a) an IEE Certificate has been issued in respect of the ship; and
- (b) the Certificate has not been cancelled under regulation 13B(2).

(4) The owner and master of a ship in respect of which an IEE Certificate has been issued and to which this regulation applies, must ensure that the Certificate is readily available on board the ship for inspection at all times.

(5) In this regulation “initial survey” and “general or partial survey” have the meanings given by regulation 11A.”.

(7) In regulation 11A (issue of IEE Certificates by a Certifying Authority)—

(a) after paragraph (1) insert—

“(1A) Where an IEE Certificate has been issued under paragraph (1) before 24th April 2023, the Certifying Authority must report the attained EEDI and required EEDI for the ship to the IMO by 1st August 2023.

(1B) Where an IEE Certificate has been issued under paragraph (1) on or after 24th April 2023, the Certifying Authority must report the attained EEDI and required EEDI for the ship to the IMO within seven months of the surveyor’s notification.

(1C) Subject to the payment of the prescribed fee, on being notified by a surveyor that the surveyor—

- (a) has carried out an annual survey, intermediate survey or renewal 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 EEXI has not previously been calculated and recorded in an IEE Certificate,
  - (ii) the ship’s attained EEXI is in accordance with Chapter 4 of Annex VI, and
  - (ii) the ship’s SEEMP is on board,

a Certifying Authority must either issue an IEE Certificate in respect of that ship if it does not already hold a valid IEE Certificate, or update the ship’s existing IEE Certificate.”;

(b) for subparagraph (i) of paragraph (4)(c) substitute—

- “(i) in the case of a ship for which the attained EEDI was required to be calculated by Chapter 4 of Annex VI, the ship’s attained EEDI is in accordance with Chapter 4 of Annex VI;
- (ia) in the case of a ship for which the attained EEXI was required to be calculated by Chapter 4 of Annex VI, the ship’s attained EEXI is in accordance with Chapter 4 of Annex VI;”;

(c) for paragraph (6) substitute—

- “(6) In this regulation—
  - “attained EEDI” means the Attained Energy Efficiency Design Index relating to a ship calculated in accordance with Regulation 22 of Annex VI;
  - “attained EEXI” means the Attained Energy Efficiency Existing Ship Index relating to a ship calculated in accordance with Regulation 23 of Annex VI;
  - “general or partial survey” means a survey required by paragraph 4.2 of Regulation 5 of Annex VI;
  - “initial survey” means a survey required by paragraph 4.1 of Regulation 5 of Annex VI;
  - “required EEDI” means the Required Energy Efficiency Design Index relating to a ship calculated in accordance with Regulation 24 of Annex VI.”.

(8) After regulation 13A (issue of IEE Certificates in respect of ships which are not United Kingdom ships) insert—

**“Duration and validity of IEE Certificates**

**13B.**—(1) Subject to paragraph (2), an IEE Certificate issued in respect of a ship to which regulation 11A applies remains valid throughout the life of the ship.

(2) The Secretary of State may cancel an IEE Certificate issued in respect of a ship to which regulation 11A applies where—

- (a) the Secretary of State has reason to believe that the IEE Certificate was issued on false or erroneous information;
- (b) the ship has been withdrawn from service;
- (c) a new IEE Certificate has been issued following a major conversion of the ship;
- (d) the ship has transferred to the flag of another State; or

- (e) since the completion of any of the surveys referred to in regulation 11A(1)(a) or (1C)
  - (a) the ship's equipment, systems, fittings, arrangements or material covered by the survey have been changed without the express approval of the Secretary of State.
- (3) The Secretary of State may require that an IEE Certificate issued in respect of a ship to which regulation 11A applies and which has been cancelled, is to be surrendered within such time and in such manner as the Secretary of State may direct.
- (4) In relation to a ship to which regulation 11A applies, no person may—
  - (a) intentionally alter an IEE Certificate other than in accordance with these Regulations;
  - (b) intentionally make a false IEE Certificate;
  - (c) knowingly or recklessly provide false information in connection with a survey required under regulation 11A(1)(a) or (1C)(a);
  - (d) with intent to deceive, use or lend an IEE Certificate or permit an IEE Certificate to be used by another person;
  - (e) fail to surrender an IEE Certificate where required to do so pursuant to paragraph (3); or
  - (f) in Scotland, forge an IEE Certificate.”.
- (9) For regulation 19A (prohibition on non-United Kingdom ships proceeding to sea without an IEE Certificate) substitute—

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

**19A.—**(1) A ship to which this regulation applies must not proceed to sea from a port in the United Kingdom on or at any time after the date specified in paragraph (2), unless the requirements set out in paragraph (3) are met.

- (2) The date applicable to the ship is—
  - (a) the date of the ship's initial survey,
  - (b) the date of any general or partial survey of the ship, or
  - (c) in a case where sub-paragraph (a) does not apply and no such general or partial survey has been carried out, the date of the ship's first annual survey, first intermediate survey or first renewal survey,

to which the ship is subject on or after 24th April 2023.

- (3) The requirements referred to in paragraph (1) are that—
  - (a) an IEE Certificate has been issued in respect of that ship, and
  - (b) the Certificate has not ceased to be valid by virtue of Regulation 9.11 of Annex VI.
- (4) The owner and master of a ship in respect of which an IEE Certificate has been issued and to which this regulation applies, must ensure that the Certificate is readily available on board the ship for inspection at all times.
- (5) In this regulation “initial survey” and “general or partial survey” have the meanings given by regulation 11A.”.
- (10) In regulation 25A (energy efficiency of ships)—
  - (a) for paragraph (1) for substitute—
    - “(1) A SEEMP is a plan that meets the requirements of Regulation 26 of Annex VI and relevant IMO Guidelines.”;

- (b) in paragraph (2) after “ship” insert “to which this regulation applies”; and
  - (c) omit paragraph (4).
- (11) After regulation 25A insert—

**“Collection and reporting of fuel consumption data and carbon intensity index**

**25B.**—(1) The owner and master of a ship in respect of which a Statement of Compliance has been issued and to which this regulation applies, must ensure that the Statement of Compliance is readily available on board the ship for inspection for a period of 5 years after the date it was issued.

(2) Schedule 4 (collection and reporting of fuel consumption data and carbon intensity index) has effect.”.

- (12) In regulation 26 (inspection of ships)—

- (a) after paragraph (2) insert—

“(2A) The powers in sections 258 and 259 of the 1995 Act also apply to verifying—

- (a) whether an IEE Certificate has been issued in respect of the ship;
- (b) whether the ship has a SEEMP and that it is duly implemented in accordance with Regulation 28 of Annex VI; and
- (c) whether a Statement of Compliance has been issued and is still valid.”;

- (b) in paragraph (4) after “(2)(d)” insert “or (2A)”.

- (13) In regulation 29 (power for harbour master to detain)—

- (a) in paragraph (1) for “or an offence comprising a contravention of paragraph 10 of Schedule 4” substitute “other than a contravention of regulation 11ZA(1) or (4), 13B(4), 19A(1) or (4) or 25A(2) or (3)”;
- (b) in paragraphs (4) to (6), for “a relevant offence”, in each place those words occur, substitute “the relevant offence”;
- (c) in paragraph (7), after “relevant offence” insert “other than a contravention of regulation 11ZA(1) or (4), 13B(4), 19A(1) or (4) or 25A(2) or (3)”.

- (14) In regulation 32(1) (offences)—

- (a) in subparagraph (a)—

- (i) after “10(2),” insert “11ZA(1) or (4),”;
- (ii) after “19(1) or (2),” insert “19A(1) or (4),”;
- (iii) after “25(9)(c),” insert “25A(2) or (3), 25B(1)”;
- (iv) omit “or paragraph 10 of Schedule 4”;

- (b) in subparagraph (d) omit “or 19A”; and

- (c) in subparagraph (e) after “regulation” insert “13B(4) or”.

- (15) In Schedule 4 (collection and reporting of fuel consumption data)—

- (a) in the heading, after “data” insert “and operational carbon intensity”;
- (b) in the shoulder note, for “Regulation 25A” substitute “Regulation 25B”;
- (c) for paragraph 1 (interpretation) substitute—

“1. Expressions used in this Schedule have the same meanings as in Annex VI and “CII regulated ship” means any of the following types of ship—

- (a) a bulk carrier;



- (b) a combination carrier;
- (c) a containership;
- (d) a cruise passenger ship;
- (e) a gas carrier;
- (f) a general cargo ship;
- (g) a LNG carrier;
- (h) a refrigerated cargo carrier;
- (i) a ro-ro cargo ship;
- (j) a ro-ro cargo ship (vehicle carrier)
- (k) a ro-ro passenger ship;
- (l) a tanker;

but not a category A ship as defined in the Polar Code.”;

- (d) omit paragraph 2 (application);
- (e) in paragraph 3 (ship energy efficiency management plan) for “regulation 22A.1” substitute “Regulation 27.1”;
- (f) after paragraph 3 insert—
  - “**3A.** Where a ship is a CII regulated ship the ship’s SEEMP must also include—
    - (a) a description of the methodology that will be used to calculate the ship’s attained annual operational CII in accordance with Regulation 28 of Annex VI and the process that will be used to report this value to the Certifying Authority,
    - (b) the required annual operational CII, as determined in accordance with Regulation 28 of Annex VI, for the next 3 years,
    - (c) an implementation plan documenting how the required annual operational CII will be achieved during each of the next 3 years, and
    - (d) a procedure for self-evaluation and improvement.”;
- (g) in paragraph 4 after “paragraph 3” insert “and 3A”;
- (h) in paragraph 6 (verification of data) for “regulation 22A” substitute “Regulation 27”;
- (i) after paragraph 6 insert—

**“Operational carbon intensity indicator**

**6A.** The owner of a CII regulated ship must use the data collected in accordance with paragraph 5, to calculate the attained annual operational CII of the ship for the preceding calendar year, taking into account the relevant IMO Guidelines.

**6B.** The owner of a CII regulated ship must report its attained annual operational CII to a Certifying Authority by 31st March of the year following the year to which the data relate.

**6C.** Upon receipt of the attained annual operational CII, the Certifying Authority must, taking into account the relevant IMO Guidelines—

- (a) verify that the attained annual operational CII reported is based on the data submitted in accordance with Regulation 27 of Annex VI, and

- (b) based on the verified attained annual operational CII, determine the operational carbon intensity rating of the ship in accordance with Regulation 28.6 of Annex VI.

**6D.** Where a CII regulated ship has been rated by a Certifying Authority as “D” for three consecutive years, or as “E” for any year, the Certifying Authority shall inform the owner of the ship and the owner of the ship must—

- (a) review the SEEMP and include in it a plan of corrective actions to achieve the required annual operational CII, which must be developed taking into account the relevant IMO Guidelines, and
- (b) submit the revised SEEMP to the Certifying Authority which determined that ship’s operational carbon intensity rating within one month, or no later than the 30th April immediately after the date on which the ship’s attained annual operational CII was reported under paragraph 6B.”.

- (j) For paragraph 7 (statement of compliance) substitute—

**“Statement of Compliance**

**7.** The Certifying Authority must issue a Statement of Compliance no later than five months after the beginning of the year in which the data were reported if—

- (a) it is satisfied that the fuel oil consumption data have been reported in accordance with Regulation 27 of Annex VI.
- (b) in cases where paragraph 6D applies, it is satisfied that the revised SEEMP meets the requirements of paragraph 6D(a).”;

- (k) Omit paragraph 10 (statement of compliance to be kept on board ship).