

2024 No. 509

MARINE POLLUTION

**The Merchant Shipping (Anti-Fouling Systems) Regulations
2024**

Made - - - - *17th April 2024*
Laid before Parliament *18th April 2024*
Coming into force *10th May 2024*

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The Secretary of State, in exercise of the powers conferred by articles 2(1), (2)(a) to (g), (3) and 3 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996(a), articles 3 and 4 of the Merchant Shipping (Control of Harmful Anti-Fouling Systems on Ships) Order 2022(b), sections 128(5) and (6), 302(1) and 306A of the Merchant Shipping Act 1995(c), and with the consent of the Treasury, makes the following Regulations.

PART 1 Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Merchant Shipping (Anti-Fouling Systems) Regulations 2024 and come into force on 10th May 2024.

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

Amendments and revocations

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

(2) 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.

Interpretation

3. In these Regulations—

“the Act” means the Merchant Shipping Act 1995;

“AFS-Certificate” means the certificate issued in accordance with Annex 4 to the Convention;

“AFS-Declaration” means the declaration drawn up in accordance with Annex 4 to the Convention;

“anti-fouling system” has the same meaning as in article 2(2) of the Convention;

“Convention” means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001(d);

(a) S.I. 1996/282, amended by the Marine and Coastal Access Act 2009 (c. 23), Schedule 4, Part 1, paragraphs 3(1) to (3), S.I. 2022/844 and S.I. 2015/664.

(b) S.I. 2022/1334.

(c) 1995 c. 21. Section 128 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 29, Schedule 6, paragraphs 3(2) and (3) and Schedule 7, Part I and the Merchant Shipping (Pollution) Act 2006 (c. 8), section 2. Section 306A was inserted by the Deregulation Act 2015 (c. 20), section 106. There is another amending instrument but it is not relevant.

(d) Cmnd 8284. The Convention was adopted on 18th October 2001 and came into force on 17th September 2008. The Convention has been amended by International Maritime Organization (IMO) Resolution MEPC.331(76) which was

“cybutryne” means the chemical substance bearing the Chemical Abstracts Service Number 28159-98-0(a);

“gross tonnage” means gross tonnage determined in accordance with regulation 6 (gross tonnage) or 12(1) (continuing use of previous gross tonnage) of the Merchant Shipping (Tonnage) Regulations 1997(b);

“international voyage” means a voyage between—

- (a) a port in the United Kingdom and a port outside the United Kingdom; or
- (b) a port in a Convention country (other than the United Kingdom) and a port in any other country or territory (whether a Convention country or not) which is outside the United Kingdom,

and, for the purposes of paragraph (b), “Convention country” means a country or territory which is either a country the Government of which is party to the Convention or a territory to which the Convention extends whether or not it is subject to the amendments to, or reservations in respect of, the Convention;

“United Kingdom ship” has the same meaning as in section 85(2) of the Act.

Application

4.—(1) Subject to paragraph (2), these Regulations apply to—

- (a) United Kingdom ships, wherever they may be; and
- (b) non-United Kingdom ships while they are within United Kingdom waters or controlled waters.

(2) These Regulations do not apply to—

- (a) ships of war or naval auxiliary ships; and
- (b) ships owned or operated by a State and engaged only on governmental non-commercial service.

(3) In this regulation—

“controlled waters” means the areas of sea specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 2014(c) 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 for the protection and preservation of the marine environment(d);

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

- (a) transferred between ships;
- (b) loaded onto a ship after having been transported from the shoreline; or
- (c) unloaded from a ship for transporting to the shoreline.

adopted by the IMO on 17th June 2021 and comes into force on 1st January 2023. The Convention may be obtained in copy from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=70021>). The IMO Resolution is available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR and its website ([https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/MEPCDocuments/MEPC.331\(76\).pdf](https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/MEPCDocuments/MEPC.331(76).pdf)) or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>).

- (a) The Chemical Abstracts Service assigns a unique identification number to every chemical substance described in open scientific literature.
- (b) S.I. 1997/1510, amended by S.I. 1998/1916, 1999/3206, 2020/362 and 2023/246; there are other amending instruments but none is relevant.
- (c) S.I. 2014/3306. There are amending instruments but none is relevant.
- (d) 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.

Ambulatory reference

- 5.**—(1) In these Regulations, any reference to the Convention is to be construed—
- (a) as a reference to the Convention as modified from time to time; and
 - (b) as, if the Convention is replaced, a reference to its replacement.
- (2) For the purposes of paragraph (1), the Convention is modified or replaced if the modification or replacement takes effect in accordance with Article 16 of the Convention.
- (3) A modification or replacement of the Convention has effect at the time such modification or replacement comes into force in accordance with Article 16 of the Convention.

PART 2

Anti-fouling systems

Prohibitions and requirements for ships

- 6.**—(1) An anti-fouling system listed in Column One of the Table in Annex 1 to the Convention must not be applied or reapplied to a ship.
- (2) Subject to paragraph (3), a ship—
- (a) must not bear an organotin compound which acts as a biocide in anti-fouling systems on its hull or another external part or surface; or
 - (b) must bear a coating which forms a barrier to prevent an organotin compound, which acts as a biocide, leaching from the anti-fouling system containing that substance.
- (3) Paragraph (2) does not apply to a fixed or floating platform, a floating storage unit or a floating production storage and off-loading unit—
- (a) constructed before 1st January 2003; and
 - (b) which has not been in dry dock on or after 1st January 2003.
- (4) Subject to paragraph (5), a ship bearing an anti-fouling system which contains cybutryne in the external coating layer of its hull or another external part or surface on the date on which these Regulations come into force must on or before the relevant day—
- (a) remove the anti-fouling system; or
 - (b) apply a coating which forms a barrier to prevent cybutryne leaching from the anti-fouling system containing that substance.
- (5) Paragraph (4) does not apply to—
- (a) a fixed or floating platform, a floating storage unit or a floating production storage and off-loading unit—
 - (i) constructed before 1st January 2023; and
 - (ii) which has not been in dry dock on or after 1st January 2023;
 - (b) a ship not engaged on international voyages;
 - (c) a ship of less than 400 gross tonnage engaged on international voyages which has been excepted from the requirements of paragraph (4) by the Secretary of State.
- (6) In this regulation—
- “international voyage” means a voyage between—
- (a) a port in the United Kingdom and a port outside the United Kingdom; or
 - (b) a port in a country other than the United Kingdom and a port in any other country or territory which is outside the United Kingdom;
- “relevant day” means—

- (a) the day on which the earliest scheduled renewal of the anti-fouling system takes place during the period starting on the day after the date on which these Regulations come into force and ending on 31st December 2027; or
- (b) 31st December 2027, if there is no scheduled renewal of the anti-fouling system during the period described in sub-paragraph (a).

PART 3

Surveys and certification

AFS-Certificates: ships of 400 gross tonnage and above

7.—(1) Subject to paragraph (2), this regulation applies to a ship which is—

- (a) of 400 gross tonnage and above; and
- (b) engaged on an international voyage.

(2) This regulation does not apply to a fixed or floating platform, a floating storage unit or a floating production storage and off-loading unit.

(3) A ship to which this regulation applies must be subjected to—

- (a) an initial survey—
 - (i) before the ship is put into service; or
 - (ii) when the ship is for the first time in a dry-dock for the application of anti-fouling systems; and
- (b) a survey when the anti-fouling systems are changed or replaced,

to ensure that the ship's anti-fouling system complies with regulation 6 (prohibitions and requirements for ships).

(4) An initial survey under paragraph (3)(a) or a survey under paragraph (3)(b) must be carried out in accordance with Annex 4 to the Convention, having regard to the guidelines for survey and certification of anti-fouling systems on ships contained in the Annex to the International Maritime Organization Resolution MEPC.358(78)(a).

(5) Subject to payment of the prescribed fee for a survey and on being notified that the surveyor—

- (a) has carried out an initial survey under paragraph (3)(a) or a survey under paragraph (3)(b); and
- (b) is satisfied at the date of the survey that the ship complies with each requirement of regulation 6 applicable to it,

a Certifying Authority must issue or endorse an AFS-Certificate in respect of that ship.

(6) A ship must not proceed on any voyage or, if it is already on a voyage, continue on that voyage, unless there is in relation to the ship—

- (a) an AFS-Certificate issued or endorsed under paragraph (5); or
- (b) an AFS-Certificate issued prior to the coming into force of these Regulations, as required under regulation 5 of the Merchant Shipping (Anti-Fouling Systems) Regulations 2009(b), and which is still in force.

(7) In this regulation—

(a) MEPC.358(78) was adopted by the International Maritime Organization on 10th June 2022 and is available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>).

(b) S.I. 2009/2796, amended by S.I. 2011/3056, 2014/3306 and 2019/311. This instrument is also revoked by these Regulations.

“Certifying Authority” has the meaning given to it in regulation 4 of the Merchant Shipping (Survey and Certification) Regulations 2015(a) (certifying authorities);

“prescribed fee” means the fee prescribed by the Secretary of State under section 302 of the Merchant Shipping Act 1995 (fees)(b);

“surveyor” means a surveyor appointed by a Certifying Authority, and “survey” means a survey carried out by a surveyor.

AFS-Declarations: ships of less than 400 gross tonnage

8.—(1) Subject to paragraphs (2) and (3), this regulation applies to a ship which is—

- (a) less than 400 gross tonnage;
- (b) 24 metres or more in length; and
- (c) engaged on an international voyage.

(2) This regulation does not apply to—

- (a) a fixed or floating platform, a floating storage unit or a floating production storage and off-loading unit;
- (b) a ship of less than 400 gross tonnage engaged on international voyages which has been excepted from the requirements of paragraph (3) by the Secretary of State.

(3) A ship must not proceed on any voyage, or if it is already on a voyage continue on that voyage, unless there is in force an AFS-Declaration, and that AFS-Declaration—

- (a) is accompanied by appropriate documentation; or
- (b) contains an appropriate endorsement.

(4) In this regulation—

“AFS-Declaration” includes an AFS-Declaration drawn up prior to the coming into force of these Regulations, as required under regulation 6 of the Merchant Shipping (Anti-Fouling Systems) Regulations 2009, and which is still in force;

“appropriate documentation” means a paint receipt, contractor’s invoice or other evidence of the type of anti-fouling system used on the ship;

“length” has the same meaning as in regulation 2(1) of the Merchant Shipping (Load Line) Regulations 1998(c).

Cancellation of a certificate

9.—(1) The Secretary of State may cancel an AFS-Certificate issued in respect of a United Kingdom ship where there is reason to believe that—

- (a) the certificate was issued on the basis of false or erroneous information; or
- (b) since any survey required by these Regulations, any coating referred to in regulation 6(2)(b) or 6(4)(b) (coatings forming a barrier to prevent an organotin compound which acts as a biocide, or cybutryne, leaching from underlying non-compliant anti-fouling systems) and borne by the ship has sustained damage or is otherwise deficient.

(2) The Secretary of State may require an AFS-Certificate that has been—

- (a) cancelled under paragraph (1); or
- (b) issued in respect of a United Kingdom ship but which has ceased to be valid,

to be surrendered.

(3) No person may—

(a) S.I. 2015/508. There are amending instruments but none is relevant.

(b) The prescribed fee is found in the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104).

(c) S.I. 1998/2241, amended by S.I. 2000/1335; there are other amending instruments but none is relevant.

- (a) intentionally alter a certificate;
- (b) intentionally make a false certificate;
- (c) knowingly or recklessly provide false information in connection with any survey required by these Regulations;
- (d) with intent to deceive, use or lend a certificate or permit a certificate to be used by another person;
- (e) fail to surrender a certificate when required to do so pursuant to paragraph (2); or
- (f) in Scotland, forge a certificate.

Availability of certificates and other documents

10.—(1) An AFS-Certificate must be readily available for examination at all times on board every ship to which regulation 7 (AFS-Certificates: ships of 400 gross tonnage and above) applies.

(2) An AFS-Declaration and the appropriate documentation or endorsement referred to in regulation 8(3) (AFS-Declarations: ships of less than 400 gross tonnage) must be readily available for examination at all times on board every ship to which that regulation applies.

Arbitration

11.—(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out for the purposes of regulation 7 (AFS-Certificates: ships of 400 gross tonnage and above), the applicant may serve a written notice on the responsible person within 21 days of receiving notification of that outcome—

- (a) stating that there is a dispute between them; and
- (b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to paragraph (3), an arbitrator referred to in paragraph (1) must be appointed by agreement between the applicant and the responsible person.

(3) In default of agreement between the applicant and the responsible person, the arbitrator is such person as may be appointed by the President or Vice President of the Chartered Institute of Arbitrators following a request made by—

- (a) a party, after giving written notice to the other party; or
- (b) the parties jointly,

but this paragraph does not apply in relation to Scotland.

(4) No person is to be an arbitrator under this regulation unless that person is—

- (a) a person who holds a certificate of competency as—
 - (i) a Class 1 Deck Officer; or
 - (ii) a Class 1 Marine Engineer Officer;
- (b) a person who holds a certificate of competency equivalent to a certificate referred to in sub-paragraph (a);
- (c) a naval architect;
- (d) a qualified person;
- (e) a person with experience of—
 - (i) shipping matters;
 - (ii) the fishing industry; or
 - (iii) activities carried on in ports; or
- (f) a member of the Chartered Institute of Arbitrators.

(5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 259 of the Merchant Shipping Act 1995.

(6) In the application of this regulation to Scotland—

- (a) any reference to an arbitrator is to be construed as a reference to an arbiter, and
- (b) the reference in paragraph (2) to appointment by agreement between the parties is to be construed as a reference to appointment by such agreement or, in default of agreement, appointment by a sheriff.

(7) The rules for arbitration set out in Merchant Shipping Notice No. M.1613(a) apply unless alternative procedures are agreed between the applicant and the responsible person before the commencement of arbitration proceedings.

(8) In this regulation—

“applicant” means a person who makes an application for a survey required by these Regulations;

“Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport) and includes a reference to any document amending or replacing that notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“qualified person” means—

- (a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007(b);
- (b) a person who is an advocate or solicitor in Scotland of at least 7 years’ standing; or
- (c) a person who is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland of at least 7 years’ standing;

“responsible person” means the Certifying Authority responsible under regulation 7(5) (surveys and certification) for the issue or endorsement of the AFS-Certificate.

PART 4

Enforcement

Offences and penalties

12.—(1) Any contravention of—

- (a) regulation 6(1), (2) or (4) (prohibitions and requirements for ships);
- (b) regulation 7(3)(a) or (b), or (6) (AFS-Certificates: ships of 400 gross tonnage or above);
- (c) regulation 8(3) (AFS-Declarations: ships of less than 400 gross tonnage);
- (d) regulation 10(1) or (2) (availability of certificates and other documents),

is an offence by the owner and master in respect of each case of non-compliance.

(2) Any contravention of regulation 9(3) (alteration etc. of a certificate) is an offence by the person in question.

(3) An offence under paragraph (1) or (2) is punishable—

- (a) on summary conviction—
 - (i) in England and Wales by a fine; or
 - (ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment by a fine.

(a) Merchant Shipping Notice 1613 No. M.1613 is available on <https://www.gov.uk/government/collections/merchant-shipping-notice-1613> and in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mcga.gov.uk).

(b) 2007 c. 15. There are amendments to the Act but none is relevant.

(4) It is a defence for a person charged with an offence under this regulation to prove that the person charged took all reasonable steps to avoid the commission of the offence.

Detention

13.—(1) Any ship which does not comply with the requirements of these Regulations or the Convention applicable to that ship may be detained.

(2) Section 284 of the Act(a) (enforcing detention of a ship) applies where a ship is liable to be detained under this regulation as if—

- (a) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and
- (b) subsection (7) were omitted.

(3) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—

- (a) states the grounds of the detention; and
- (b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(4) Subject to paragraph (6), section 96 (references of detention notices to arbitration)(b) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 (power to detain dangerously unsafe ship)(c).

(5) For the purposes of paragraph (4)—

- (a) section 96 of the Act applies as if—
 - (i) subsection (3) were omitted;
 - (ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;
 - (iii) subsection (11) were omitted; and
- (b) sections 96 and 97 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.

(6) Subject to paragraph (8), where a ship other than a United Kingdom ship is detained, the Secretary of State must immediately inform the ship’s flag administration in writing.

(7) If it is not possible to inform the ship’s flag administration in accordance with paragraph (7), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

(8) For the purposes of paragraphs (7) and (8), “flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

PART 5

Review

Review of these Regulations

14.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision in these Regulations; and

(a) Section 284 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28) and S.I. 2015/664.

(b) Section 96(7) was amended by Part 1 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) and by Schedule 11 to the Constitutional Reform Act 2005 (c. 4). Section 96(10) was repealed by Schedule 4 to the Arbitration Act 1996 (c. 23).

(c) Section 95 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28).

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(a) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Convention are implemented in other countries which are subject to the obligations.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

Davies of Gower
Parliamentary Under Secretary of State
Department for Transport

17th April 2024

We consent to the making of these Regulations

Scott Mann
Joy Morrissey
Two of the Lords Commissioners of His Majesty’s Treasury

16th April 2024

SCHEDULE

Regulation 2

Amendments and revocations

PART 1

Amendments

The Merchant Shipping (Fees) Regulations 2018

1. The Merchant Shipping (Fees) Regulations 2018(b) are amended as follows.

1. In Schedule 1 (fees under the Merchant Shipping Act 1995), in the table in paragraph 5 (fees for inspections, etc) of Part 1 (surveys, inspections and applications for exemption), in Section J (prevention and control of pollution), at the end, insert—

(a) 2015 c. 26. Section 30(3) was amended by the Enterprise Act 2016 (c. 12), section 19 and the European Union (Withdrawal) Act 2018 (c. 16), Schedule 8, Part 2, paragraph 36. There is another Act which amends section 28 but it is not relevant.

(b) S.I. 2018/1104, to which there are amendments not relevant to these Regulations.

“The Merchant Shipping (Anti-Fouling Systems) Regulations 2024	2024/509	None”
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PART 2

Revocations

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14th April 2003 on the prohibition of organotin compounds on ships	OJ L 115, 9.5.2003, p. 1–11	The whole Regulation
The Merchant Shipping (Anti-Fouling Systems) Regulations 2009	S.I. 2009/2796	The whole Regulations
Merchant Shipping (Ship Inspection and Survey Organisations) (Revocation) Regulations 2011	S.I. 2011/3056	Paragraph 5 to the Schedule
Merchant Shipping (Prevention of Pollution) (Limits) Regulations 2014	S.I. 2014/3306	Schedule 2, paragraph 8
Merchant Shipping and Other Transport (Environmental Protection) (Amendment) (EU Exit) Regulations 2019	S.I. 2019/311	Regulations 7, 8 and 9

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (“the Convention”), including amendments to the Convention made by International Maritime Organization (IMO) Resolution MEPC.331(76).

These Regulations revoke and replace Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14th April 2003 on the prohibition of organotin compounds on ships (formerly part of Retained EU Law) and the Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796). These instruments implemented the previous version of the Convention.

Anti-fouling systems comprise the coating put on the outside of hulls of ships to prevent the attachment of unwanted organisms. The Convention, adopted on 18th October 2001, came into force on 17th September 2008 and contains provision to ensure that anti-fouling systems do not contain substances which are harmful to marine life and the marine environment.

MEPC.331(76), adopted on 17th June 2021, came into force on 1st January 2023. It amends the Convention to introduce a new prohibition on the use of anti-fouling systems containing cybutryne on ships.

All future amendments to the provisions of the Convention will be automatically given effect in United Kingdom law by way of the ambulatory reference provision (regulation 5) made under the power in section 306A of the Merchant Shipping Act 1995.

Part 2 (regulation 6) implements the prohibitions and requirements in relation to the use of organotin compounds acting as biocides, and cybutryne, in anti-fouling systems. These provisions prohibit the application of these substances or, in cases where they have already been applied,

require their removal or overlay by a non-prohibited substance by not later than 31st December 2027.

Part 3 (regulations 7 to 11) provides for the survey and certification of ships in relation to compliance with the requirements of Part 2. These provisions apply only to ships engaged on international voyages.

Part 4 (regulations 12 and 13) contains provision for the control and enforcement of the prohibitions and requirements in these Regulations. Regulation 12 makes provision for a number of offences, specifically making it an offence by the owner and master for a ship to be used in contravention of any of certain requirements in regulations 6 (prohibitions etc.), 7 (AFS-Certificates etc.), 8 (AFS-Declarations etc.) and 10 (availability of certificates etc.). This regulation also makes it an offence by a person to breach the requirements in regulation 9(3) (false certification etc.). Regulation 13 contains power to detain a ship in cases of non-compliance with these Regulations.

Part 5 (regulation 14) requires the Secretary of State to review the operation and effect of these Regulations and publish a report at the end of the period of five years beginning with the date on which these Regulations come into force and at intervals not exceeding five years after that. Following a review, it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be amended or revoked. A further instrument would be needed to amend or revoke the Regulations.

The Schedule to these Regulations makes consequential amendments to the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104) to enable fees to be charged in relation to the carrying out of surveys and certain other steps required under these Regulations. It also revokes (amongst other things) Regulation (EC) 782/2003 of the European Parliament and of the Council of 14th April 2003 on the prohibition of organotin compounds on ships and the Merchant Shipping (Anti-Fouling Systems) Regulations 2009, which are superseded by these Regulations.

Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14th April 2003, which is referred to in these Regulations, is the assimilated version of Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships (OJ L 115, 9.5.2003, p. 1–11). This was amended by Commission Regulation (EC) No 536/2008 of 13 June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) No 782/2003 and amending that Regulation (OJ L 156, 14.6.2008, p. 10–11) and Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny (OJ L 87, 31.3.2009, p. 109–154).

Merchant Shipping Notice M. 1613, which is referred to in these Regulations, is available on https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282032/msn1613.pdf, or in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mcga.gov.uk) or on <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency>.

The Convention and IMO Resolution MEPC.331(76) may be obtained in copy from the International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR and the Convention is available on the Foreign, Commonwealth and Development Office (FCDO) treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>).

Future amendments to the Convention may be obtained in copy from the IMO and, after coming into force in the United Kingdom, found on the Foreign, Commonwealth and Development Office (FCDO) treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>). Until such publication is made on the FCDO treaties database, an amendment will be available from the MCA and on <https://www.gov.uk>. An amendment will be publicised in advance of its in-force date by means of a Parliamentary Statement to both Houses of Parliament and by way of a Marine

Guidance Note, which will be available in copy from the MCA and on <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency>.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

An Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

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