
STATUTORY INSTRUMENTS

2008 No. 2924

The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 and come into force on 8th December 2008.

Interpretation

2.—(1) In these Regulations—

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

“the 1995 Regulations” means the Merchant Shipping (Port State Control) Regulations 1995(1);

“additional survey” means a survey carried out under regulation 10(3);

“Annex VI” means Annex VI to the Convention, which was added to the Convention by the Protocol of 1997, and includes—

- (a) all amendments to that Annex adopted by the Marine Environment Protection Committee of the IMO before the date on which these Regulations are made, and
- (b) any subsequent amendment to that Annex which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“anniversary date” means the day and month of each year which will correspond to the date of expiry of the latest appropriate certificate which has been issued and which is still valid in respect of the ship in question;

“annual survey” means a survey carried out under regulation 5(3);

“annual survey period” means the period specified in regulation 7(5);

“appropriate certificate” means—

- (a) an IAPP Certificate, in relation to—
 - (i) a platform which is or will be engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government other than the United Kingdom, and
 - (ii) any other United Kingdom ship of 400 GT or above which is or will be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government other than the United Kingdom,

- (b) a UKAPP Certificate in relation to—
- (i) a platform which is not or will not be engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government other than the United Kingdom, and
 - (ii) any other United Kingdom ship of 400 GT or above which is not and will not be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government other than the United Kingdom;

“Certifying Authority” means the Secretary of State or any organisation which is an authorised organisation for the purposes of the Merchant Shipping (Ship Inspection and Survey Organisations) Regulations 1996⁽²⁾;

“Contracting Government” means the Government of a State which has consented to be bound by the Convention, and for which the Protocol of 1997 to the Convention is in force;

“the Convention” means the International Convention for the Prevention of Pollution from Ships, 1973⁽³⁾ including its protocols, annexes and appendices, as amended by the Protocols of 1978⁽⁴⁾ and 1997⁽⁵⁾, and includes—

- (a) all the amendments adopted by the Marine Environment Protection Committee of the IMO on or before the date on which these Regulations are made; and
- (b) any subsequent amendment to that Convention which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“continuous feed” in relation to a shipboard incinerator, means the process whereby waste is fed into a combustion chamber without human assistance while the incinerator is in normal operating conditions with the combustion chamber operative temperatures within the range of 850° and 1200°C;

“controlled waters” means the waters specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996⁽⁶⁾ as areas within which the jurisdiction and rights of the United Kingdom are exercisable;

“date of expiry”, in relation to an appropriate certificate held in respect of a ship, means the last day of the period specified in that appropriate certificate as the period for which the certificate is valid;

“emission” means any release of a substance subject to control by these Regulations from a ship into the atmosphere or sea;

“exclusive economic zone”, in relation to a foreign State, means the area beyond and adjacent to the territorial sea of that State, but not extending beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured;

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

“fuel oil” means such substances as may be specified by the Secretary of State in a Merchant Shipping Notice;

“GT” means gross tonnage, and the gross tonnage of a ship is to be determined for the purposes of these Regulations in accordance with Schedule 1;

“harbour master” has the same meaning as in section 144(7) of the 1995 Act;

“IAPP Certificate” means a certificate entitled “International Air Pollution Prevention Certificate” issued in accordance with the Convention;

(2) [S.I. 1996/2908](#): an “authorised organisation” is defined in regulation 2 of those Regulations.

(3) Cmnd 5748

(4) Cmnd 7347.

(5) Cmnd 4427.

(6) [S.I. 1996/2128](#), amended by [S.I. 1997/506](#).

“IMO” means the International Maritime Organization;

“intermediate survey period” means the period specified in regulation 8(4);

“Marine Guidance Note” means a note described as such and issued by the MCA and any reference to a particular Marine Guidance Note includes a reference to a Marine Guidance Note amending or replacing that Note which is considered by the Secretary of State to be relevant from time to time;

“maximum continuous rating of the engine” means the rated power in kW as given in the Engine International Air Pollution Prevention Certificate issued in accordance with the NOx Technical Code;

“MCA” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

“Merchant Shipping Notice” means a notice described as such and issued by the MCA, and any reference to any 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;

“new installation” means the installation of systems, equipment, including new portable fire extinguishing units, insulation, or other material on a ship, but excludes repair or recharge of previously installed systems, equipment, insulation, or other material, and excludes recharge of portable fire extinguishing units;

“noxious liquid substance” has the meaning given in regulation 1.10 of Annex II to the Convention;

“NOx Technical Code” means the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines (7) and includes any document amending it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“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;

“ozone-depleting substance” means a controlled substance defined in paragraph 4 of article 1 of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987(8) listed in Annex A, B, C or E to that Protocol and in Appendix 4 to Merchant Shipping Notice 1819 (M+F);

“platform” includes fixed and floating platforms and drilling rigs;

“Protocol of 1997” means the Protocol, dated 26th September 1997, to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto;

“renewal survey” means a survey carried out under regulation 6(3);

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

“ship” means a vessel of any type whatsoever, including a hydrofoil boat, an air-cushion vehicle, a submersible, a floating craft and a platform, which is operating in the marine environment—

(7) IMO publication, IMO – 664E; ISBN 92-801-6089-3.

(8) Publication of the United Nations Environment Programme; ISBN: 92-807-1888-6.

- (a) beyond the limits of waters in categories A and B, or
- (b) in waters in category C, but excluding deep lakes and lochs where the significant wave height (calculated as four times the square root of the area under the wave energy spectrum) could not be expected to exceed 1.2 metres at any time,

where categories A, B and C have the meanings given to them in Merchant Shipping Notice 1776(M);

“shipboard incineration” means the incineration on board a ship of wastes or other matter generated during the normal operation of the ship;

“shipboard incinerator” means a shipboard facility designed for the primary purpose of incineration;

“short voyage” means a voyage—

- (a) in the course of which a ship is never more than 200 nautical miles from a port or place in which the passengers and crew could be placed in safety, and
- (b) which does not exceed 600 nautical miles between the last port of call in the country in which the voyage begins and the last port of call in the voyage before beginning any return voyage, and which on any return voyage does not exceed 600 nautical miles between the port of call in which the ship begins its return voyage and the first port of call in the country in which the voyage began,

and for the purposes of this definition no account is to be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled;

“sludge oil” means sludge from fuel or lubricating oil separators, waste lubricating oil from main or auxiliary machinery, or waste oil from bilge water separators, oil filtering equipment or drip trays;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (9), as amended in 1995 by resolution 1 of the STCW Convention (10), convened at the IMO’s headquarters from 26th June to 7th July 1995;

“sulphur oxide emission control area” means—

- (a) the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at latitude 57° 44'. 8 N;
- (b) the North Sea being all sea areas within the following boundaries including the North Sea proper and the English Channel and its approaches—
 - (i) the North Sea southwards of latitude 62°N and eastwards of longitude 4°W;
 - (ii) the Skagerrak, the southern limit of which is determined east of the Skaw by latitude 57° 44. 8'N, and
 - (iii) the English Channel and its approaches eastwards of longitude 5°W and northwards of latitude 48°30'N; and

any other sea area, including a port area, designated as a sulphur oxide emission control area for the purposes of this regulation by the Secretary of State in a Merchant Shipping Notice;

“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;

“tanker” means—

(9) Cmnd 9266.

(10) Cmnd 3772.

- (a) an oil tanker as defined in regulation 1(5) of Annex I to the Convention, or
- (b) a chemical tanker as defined in regulation 1.16.1 of Annex II to the Convention;

“terminal operator” means the person who controls the activities of any terminal, jetty, pier, floating structure or other work within a port at which ships can obtain shelter or ship and unship goods or passengers;

“UKAPP Certificate” means a certificate entitled “United Kingdom Air Pollution Prevention Certificate” issued by a Certifying Authority and evidencing compliance with these Regulations.

- (2) For the purposes of these Regulations, “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 any part of the United Kingdom and has its principal place of business in the United Kingdom.
- (3) Any reference in Part 2 to a survey, so far as it concerns a survey of engines and equipment for compliance with regulation 21, means a survey in accordance with the NO_x Technical Code.
- (4) Any reference in these Regulations to the date of construction of a ship is a reference to the date on which the keel of the ship is laid or on which the ship is at a stage of construction at which—
 - (a) construction identifiable with a specific ship has begun, and
 - (b) assembly of that ship has incorporated at least 50 tonnes of structural material or one per cent of the estimated mass of all structural material, whichever is less.
- (5) In the application of these Regulations to—
 - (a) an air-cushion vehicle, a reference to the master of a ship includes a reference to the captain of that air-cushion vehicle, and
 - (b) a platform, a reference to the master of a ship includes a reference to the manager of that platform.

Application and exemptions

3.—(1) Subject to paragraphs (2) to (12) these Regulations apply to—

- (a) a United Kingdom ship wherever it may be,
- (b) any other ship while it is within United Kingdom waters.

(2) Regulations 5 to 11 apply to—

- (a) a platform, other than one that is registered in, or is not registered in but is entitled to fly the flag of, a country whose Government is a Contracting Government other than the United Kingdom,
- (b) any other United Kingdom ship of 400 GT or above,

wherever it may be.

(3) Regulation 12 applies to—

- (a) a platform engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government other than the United Kingdom,

- (b) any United Kingdom ship of 400 GT or above engaged in voyages to ports or offshore terminals under the jurisdiction of a Contracting Government other than the United Kingdom.
- (4) Regulations 13 and 19(1) apply to a ship which is—
 - (a) not a United Kingdom ship,
 - (b) registered in, or is not registered in but is entitled to fly the flag of, a country whose Government is a Contracting Government,
 - (c) engaged in voyages to ports or offshore terminals under the jurisdiction of a Contracting Government,
 - (d) of 400 GT or above, unless it is a drilling rig, and
 - (e) in United Kingdom waters or controlled waters.
- (5) Regulations 14, 15, 16(1) to (5), 17 and 18(1) and (2) apply to—
 - (a) a platform other than one that is registered in, or is not registered in but is entitled to fly the flag of, a country whose Government is a Contracting Government other than the United Kingdom,
 - (b) any other United Kingdom ship of 400 GT or above,wherever it may be.
- (6) Regulation 16(6) applies to a ship which is—
 - (a) not a United Kingdom ship,
 - (b) engaged in voyages to ports or offshore terminals under the jurisdiction of a Contracting Government other than the United Kingdom,
 - (c) of 400 GT or above, unless it is a drilling rig, and
 - (d) in a port or offshore terminal in the United Kingdom.
- (7) Regulation 18(3) and (4) applies in relation to a ship which is—
 - (a) a platform engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government other than the United Kingdom,
 - (b) a United Kingdom ship, of 400 GT or above, wherever it may be, which is engaged in voyages to ports or offshore terminals under the jurisdiction of a Contracting Government other than the United Kingdom,
 - (c) any other ship of 400 GT or above while it is within United Kingdom waters which is not a United Kingdom ship.
- (8) Regulation 19(2) applies to a ship which satisfies all the criteria set out in paragraph (4) except for the criterion in paragraph (4)(b).
- (9) Regulation 21(4) applies to any engine on a ship wherever that ship may be.
- (10) Regulation 22(1) applies to—
 - (a) a United Kingdom ship wherever it may be, unless it is within a sulphur oxide emission control area, and
 - (b) any other ship wherever it may be unless it is within a sulphur oxide emission control area outside United Kingdom waters.
- (11) Regulation 22(2) applies to—
 - (a) a United Kingdom ship wherever it may be while it is within a sulphur oxide emission control area, and
 - (b) any other ship while it is within a sulphur oxide emission control area.

(12) These Regulations do not apply to any warship, naval auxiliary or other ship owned or operated by a State and used for the time being on government, non-commercial service.

(13) These Regulations do not apply to any emission—

- (a) necessary for the purpose of securing the safety of a ship or saving life at sea,
- (b) resulting from damage to a ship or its equipment, except to the extent that the emission is due to—
 - (i) a failure to take all reasonable precautions after the occurrence of the damage or discovery of the emission for the purpose of preventing or minimising the emission, or
 - (ii) damage caused in consequence of the owner or master acting either intending to cause damage, or recklessly and with knowledge that damage would probably result,
- (c) from any platform resulting from the incineration of substances that are solely and directly the result of exploration, exploitation and associated offshore processing of sea-bed mineral resources, including but not limited to—
 - (i) the flaring of hydrocarbons and the burning of cuttings, muds and stimulation fluids during well completion and testing operations,
 - (ii) flaring arising from upset conditions, and
 - (iii) the release of gases and volatile compounds entrained in drilling fluids and cuttings,
- (d) associated solely and directly with the treatment, handling or storage of a sea-bed mineral,
- (e) from a diesel engine that is solely dedicated to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

Equivalents

4. The Secretary of State may permit any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by these Regulations if that fitting, material, appliance or apparatus is at least as effective as that required by these Regulations.

PART 2

Surveys and Certificates of Ships

Requirement for appropriate certificate: initial survey

5.—(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 applicable to that ship specified in paragraph (2) unless the requirements set out in paragraph (3) are met.

(2) The date applicable to—

- (a) a ship which was constructed before 19th May 2005 is 18th May 2008 or, if earlier, the date of its first scheduled dry-docking after the day before these Regulations come into force,
- (b) any other ship is the date on which these Regulations come into force.

(3) The requirements are that—

- (a) a survey has been carried out in respect of the ship,

- (b) at the date of the survey the surveyor is satisfied that the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part 3, or an alternative that has been permitted pursuant to regulation 4, and
 - (c) an appropriate certificate has been issued in respect of that ship and is still valid.
- (4) A survey carried out under paragraph (3) is referred to in these Regulations as an “initial survey”.

Renewal of appropriate certificate: renewal survey

6.—(1) A ship to which this regulation applies must not—

- (a) proceed to sea, or
- (b) (if it is already at sea) remain at sea,

after the date of expiry of an appropriate certificate in respect of that ship unless the requirements set out in paragraph (2) are met.

(2) The requirements are that—

- (a) a survey has been carried out in respect of the ship,
- (b) at the date of the survey the surveyor is satisfied that the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part 3, or an alternative that has been permitted pursuant to regulation 4, and
- (c) in consequence an appropriate certificate has been issued in respect of that ship and is still valid.

(3) A survey carried out under paragraph (2) is referred to in these Regulations as a “renewal survey”.

Annual survey

7.—(1) — Subject to paragraph (3), a ship to which this regulation applies must not—

- (a) proceed to sea, or
- (b) (if it is already at sea) remain at sea,

after the end of any annual survey period for that ship unless the requirements set out in paragraph (2) are met.

(2) The requirements are that—

- (a) a survey has been carried out in respect of the ship, and
- (b) the surveyor—
 - (i) at the date of that survey is satisfied that the equipment, systems, fittings, arrangements and materials of that ship have been maintained in accordance with Part 3 and remain satisfactory for the service for which the ship is intended, and
 - (ii) has endorsed the appropriate certificate to that effect.

(3) Paragraph (1) does not apply if the requirements of regulation 6(2) or 8(2) have been met during the annual survey period in question.

(4) An endorsement referred to in sub-paragraph (2)(b)(ii) must be—

- (a) in the form set out in Appendix 1 to Annex VI where the certificate is an IAPP Certificate, and
- (b) in the form set out in Appendix 5 to Merchant Shipping Notice 1819 (M+F) where the certificate is a UKAPP Certificate.

(5) In this regulation, “annual survey period” means the period of six months beginning three months before each anniversary date.

Intermediate surveys

8.—(1) Subject to paragraph (3), a ship to which this regulation applies must not—

- (a) proceed to sea, or
- (b) (if it is already at sea) remain at sea,

after the third anniversary date, unless the requirements set out in paragraph (2) are met.

(2) The requirements are that—

- (a) a survey has been carried out in respect of the ship during an intermediate survey period, and
- (b) the surveyor—
 - (i) at the date of that survey is satisfied that the equipment and arrangements of that ship fully comply with the requirements of Part 3, or an alternative that has been permitted pursuant to regulation 4, and are at the time of the survey in good working order, and
 - (ii) has endorsed the appropriate certificate to that effect.

(3) An endorsement referred to in sub-paragraph (2)(b)(ii) must be—

- (a) in the form set out in Appendix 1 to Annex VI where the certificate is an IAPP Certificate, and
- (b) in the form set out in Appendix 5 to Merchant Shipping Notice 1819 (M+F) where the certificate is a UKAPP Certificate.

(4) In this regulation, “intermediate survey period” means a period of six months beginning three months before the second or third anniversary date.

Responsibilities of the owner and master of a ship

9.—(1) The owner and the master of a ship to which this regulation applies must ensure that the condition of the ship and its equipment are maintained to conform with the provisions of Part 3 so as to ensure that the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) The owner and the master of a ship to which this regulation applies must ensure that after any survey of the ship required by this Part has been completed, no change, except by way of direct replacement, is made to the equipment, systems, fittings, arrangements and materials of that ship covered by the survey without the approval of—

- (a) the Certifying Authority who appointed the surveyor to carry out the survey, or
- (b) the Secretary of State, where the IAPP Certificate was issued by a Contracting Government following a request made pursuant to regulation 12,

as the case may be.

(3) Whenever—

- (a) an accident occurs to a ship, or
- (b) a defect is discovered in a ship,

which substantially affects the integrity of the ship or the efficiency or completeness of the equipment of the ship required under Part 3, the owner and the master of the ship must ensure that the requirements of paragraph (4) are complied with.

- (4) The requirements are that—
- (a) the accident or defect, as the case may be, is reported at the earliest opportunity to the Certifying Authority that issued the appropriate certificate in respect of the ship, and
 - (b) in the case of a ship in a port outside the United Kingdom, the accident or the defect, as the case may be, is also immediately reported to the appropriate maritime authorities in the country in which the port is situated.
- (5) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph (4)(a), the Certifying Authority—
- (a) must cause an investigation to be initiated to determine whether or not an additional survey is necessary, and
 - (b) if it considers that an additional survey is necessary, must cause that survey to be carried out.
- (6) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph (4)(a) and the ship in question is in a port outside the United Kingdom, the Certifying Authority must take all appropriate steps to ascertain that the requirement in paragraph (4)(b) has been complied with.
- (7) In paragraph (2) “direct replacement” means the direct replacement of equipment and fittings with equipment and fittings that conform with the provisions of Annex VI.

Additional surveys

- 10.—**(1) This regulation applies to a ship where—
- (a) a repair resulting from an investigation referred to in regulation 9(5) has been made to the ship, or
 - (b) an important repair or renewal has been made to the ship.
- (2) A ship to which this regulation applies must not—
- (a) proceed to sea, or
 - (b) (if it is already at sea) remain at sea,
- unless the requirements set out in paragraph (3) are met.
- (3) The requirements are that—
- (a) a survey has been carried out in respect of the ship,
 - (b) at the date of the survey the surveyor is satisfied that—
 - (i) the repair or renewal has been made effectively,
 - (ii) the materials used in, and the workmanship of, the repair or renewal are satisfactory in all respects, and
 - (iii) the ship complies in all respects with the requirements of Part 3, and
 - (c) the surveyor has issued a survey report expressing the satisfaction required by subparagraph (b).
- (4) A survey carried out under paragraph (3) is referred to in these Regulations as an “additional survey”.

Issue of appropriate certificate by a Certifying Authority

11.—(1) Subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2006⁽¹¹⁾, on being notified by a surveyor that the surveyor—

- (a) has carried out an initial survey or a renewal survey in respect of a ship to which this regulation applies, and
- (b) is satisfied at the date of the survey that the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part 3 or an alternative that has been permitted pursuant to regulation 4,

a Certifying Authority must issue an appropriate certificate in respect of that ship.

(2) Where a ship becomes a ship to which this regulation applies on transfer from the flag of another Contracting Government, a Certifying Authority must issue an appropriate certificate in respect of that ship where—

- (a) an IAPP 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 condition of the ship and its equipment is maintained to conform with the provisions of Annex VI, so as to ensure that the ship is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, and
 - (ii) no change, other than a change referred to in paragraph (3) has been made to the equipment, systems, fittings, arrangements or material covered by the last survey carried out under regulation 5(1) of Annex VI without the approval of the Contracting Government in question.

(3) The changes referred to in paragraph (2)(c)(ii) are the direct replacement of equipment and fittings with equipment and fittings that conform with the provisions of Annex VI.

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

(5) A UKAPP Certificate issued under this regulation must be in the form prescribed by the Secretary of State in Appendix 5 to Merchant Shipping Notice 1819 (M+F).

Issue of IAPP Certificates by another Government in respect of United Kingdom ships

12.—(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 IAPP 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 IAPP 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.

⁽¹¹⁾ [S.I. 2006/2055](#), to which there are amendments not relevant to these Regulations.

Issue of IAPP Certificates in respect of ships which are not United Kingdom ships

- 13.**—(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 2006, issue in respect of that ship an IAPP certificate, or endorse the IAPP 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 IAPP 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 IAPP Certificate issued pursuant to that paragraph, and
 - (b) the survey report.
- (4) The Secretary of State must not issue an IAPP Certificate in respect of a ship which —
- (a) is registered in a country whose Government is not a Contracting Government, or
 - (b) is not registered, but is entitled to fly the flag of a country whose Government is not a Contracting Government.

Duration and validity of appropriate certificates

14.—(1) Subject to the following paragraphs and to regulations 16(3) and 18(1), an appropriate certificate issued in respect of a ship to which this regulation applies is valid for such period as is specified in the certificate, not exceeding five years beginning with the date of completion of the relevant initial or renewal survey.

- (2) Subject to paragraph (3) and regulation 15(9), where a renewal survey is completed—
- (a) within the final three month period, or
 - (b) after the date of expiry of the latest appropriate certificate,

the new appropriate certificate is valid for such period as is specified in the certificate, beginning with the date of the completion of the renewal survey and ending with a date not exceeding five years from the date of expiry of the latest appropriate certificate.

- (3) An appropriate certificate issued in respect of a ship ceases to be valid—
- (a) upon whichever is the earlier of the following—
 - (i) the ship being transferred to the flag of another State,
 - (ii) the ship proceeding to sea where—
 - (aa) a repair or renewal referred to in regulation 10(1) has been made, and
 - (bb) the requirements set out in regulation 10(3) have not been complied with,
 - (b) if a survey under regulations 5, 6, 7 or 8 is not completed in accordance with the requirements of these Regulations, or
 - (c) if an appropriate certificate is not endorsed in accordance with the requirements of these Regulations,

- (d) upon a new appropriate certificate being issued in respect of the ship, or
- (e) upon the date of expiry of the certificate.

(4) Where a ship is transferred to the flag of another State whose Government is a Contracting Government, and within three months after the date of transfer that Government so requests, the Secretary of State must send the Government a copy of—

- (a) the IAPP certificate issued in respect of that ship, and
- (b) if available, the survey report.

(5) In this regulation, the “final three month period” means the period of three months ending on the date of expiry of the certificate in question.

Extension of periods of validity of appropriate certificates

15.—(1) Where the period of validity of an appropriate certificate issued in respect of a ship to which this regulation applies is less than five years, the Certifying Authority that issued the certificate may extend its period of validity to a maximum period of five years provided that any survey required under regulation 7 or 8 has been carried out.

(2) Where—

- (a) a renewal survey has been completed by a surveyor, but
- (b) a new appropriate certificate cannot be issued or placed on board the ship before the date of expiry of the latest appropriate certificate,

the surveyor may endorse the latest appropriate certificate.

(3) Where an appropriate certificate has been endorsed under paragraph (2), that certificate is valid for such further period as is specified in the certificate, not exceeding five months beginning with the original date of expiry of the certificate.

(4) Where—

- (a) a renewal survey has not been completed before the date of expiry of the latest appropriate certificate in question, and
- (b) at the date of expiry the ship is not in the port in which the survey is to be carried out,

the Certifying Authority that issued the latest appropriate certificate may extend the period of validity of that certificate for a period not exceeding three months, if it appears to the Certifying Authority that it is proper and reasonable to do so solely for the purpose of allowing the ship to complete its voyage to its port of survey.

(5) Where the period of validity of an appropriate certificate has been extended pursuant to paragraph (4), the ship in question must not leave its port of survey until a new appropriate certificate has been issued in respect of that ship.

(6) Subject to paragraph (7), the Certifying Authority that issued the latest appropriate certificate in respect of a ship engaged solely on short voyages may extend the period of validity of that certificate for a period not exceeding one month.

(7) A Certifying Authority must not extend the period of validity of an appropriate certificate under paragraph (6) if the period of validity of that certificate has already been extended under paragraph (1), (3) or (4).

(8) Subject to paragraph (9) and to regulations 16(3) and 18(1), where a renewal survey has been completed and a new appropriate certificate has been issued in respect of a ship referred to in paragraph (5) or (6), the new appropriate certificate is valid for such period as is specified in the certificate, not exceeding five years beginning with the original date of expiry of the previous appropriate certificate.

(9) In the special circumstances set out in Marine Guidance Note 381 (M+F), the period of validity of a new appropriate certificate which is—

- (a) issued in respect of a ship referred to in paragraph (5) or (6), or
- (b) referred to in regulation 14(2) (b) and issued where the renewal survey is completed after the date of expiry of the latest appropriate certificate,

is such period as is specified in the new certificate, not exceeding five years beginning with the date of the completion of the renewal survey in question.

(10) Where the period of validity of an appropriate certificate is extended under paragraph (1), (4) or (6), or an endorsement is to be made pursuant to paragraph (2), the Certifying Authority in question must endorse the appropriate certificate in accordance with paragraph (11).

(11) An endorsement referred to in paragraph (10) must be —

- (a) in the form set out in Appendix 1 to Annex VI where the certificate is an IAPP certificate, and
- (b) in the form set out in Appendix 5 to Merchant Shipping Notice 1819 (M+F) where the certificate is an UKAPP Certificate

(12) Where—

- (a) a survey is completed under regulation 7 before the annual survey period, or
- (b) a survey is completed under regulation 8 before the intermediate survey period,

the anniversary date shown on the appropriate certificate shall be amended by an endorsement on the appropriate certificate to a date which shall not be more than three months later than the date on which the survey referred to in sub-paragraph (a) or (b) was completed.

(13) Where the anniversary date on an appropriate certificate is amended in accordance with paragraph (12) any subsequent annual or intermediate survey required under these Regulations shall be completed at the intervals prescribed by these Regulations using the new anniversary date.

(14) Where—

- (a) a survey is completed under regulation 7 before the annual survey period, or
- (b) a survey is completed under regulation 8 before the intermediate survey period,

the date of expiry of the appropriate certificate may remain unchanged provided that any surveys required by regulation 7 or 8 are carried out so that the maximum intervals between the surveys as required by these Regulations are not exceeded.

(15) In this regulation—

- (a) “annual survey period” has the same meaning as in regulation 7,
- (b) “intermediate survey period” has the same meaning as in regulation 8, and
- (c) “the original date of expiry” means the date on which an appropriate certificate would have expired but for any extension of its period of validity.

Procedure to be adopted when a ship is deficient

16.—(1) This regulation applies where a surveyor determines that—

- (a) the condition of a ship to which paragraphs (1) to (5) of this regulation apply, or its equipment, does not correspond substantially with the particulars of the appropriate certificate (if any) issued in respect of the ship, or
- (b) a ship to which paragraphs (1) to (5) of this regulation apply, is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) The surveyor must—

- (a) advise the owner or master of the corrective action which in the opinion of the surveyor is required, and
- (b) where an appropriate certificate has been issued in respect of the ship and is still valid, notify the Certifying Authority that issued the appropriate certificate—
 - (i) that the surveyor has so advised the owner and master, and
 - (ii) if that corrective action is not taken.
- (3) Where an appropriate certificate has been issued in respect of the ship and is still valid, the Certifying Authority may suspend the validity of that certificate until the corrective action has been taken.
- (4) Where the Certifying Authority suspends the validity of an appropriate certificate issued in respect of a ship, it must immediately give notice of such suspension—
 - (a) to the owner of the ship, and
 - (b) where the ship is in a port outside the United Kingdom, to the appropriate maritime authorities of the country in which the port is situated.
- (5) Where the owner of the ship is given notice of suspension, that owner must notify the master of the ship in question of the suspension.
- (6) Paragraphs (1) and (2) have effect in relation to a ship to which this paragraph applies as they have effect in relation to a ship to which those paragraphs apply as if—
 - (a) the reference to “the Certifying Authority” were to the Government of the State where the ship is registered (or if the ship is not registered, the Government of the flag State), and
 - (b) the reference to “a surveyor” included a reference to a person authorised by that Government to survey the ship.

Arbitration

- 17.—**(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a ship to which this regulation applies, 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) An arbitrator referred to in paragraph (1) must be appointed by agreement between the applicant and the responsible person.
- (3) No person is to be an arbitrator under this regulation unless that person is—
- (a) a person who holds a certificate to act as—
 - (i) a master or chief mate on a seagoing ship of 3,000 GT or more, in accordance with Regulation II/2 of Chapter 2 of the the Annex to the STCW Convention, or
 - (ii) a chief engineer officer or second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more, in accordance with Regulation III/2 of Chapter 3 of the Annex to the STCW Convention,
 - (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 special experience of shipping matters, or of the fishing industry, or of activities carried on in ports, or

- (f) a member of the Chartered Institute of Arbitrators.
- (4) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 259 of the 1995 Act.
- (5) 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 a single arbitrator appointed by agreement between the applicant and the responsible person is to be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by a sheriff.
- (6) The rules for arbitration set out in Merchant Shipping Notice M 1613 apply unless alternative procedures are agreed between the applicant and the responsible person before the commencement of arbitration proceedings.
- (7) In this regulation—
 - (a) “applicant” means a person who makes an application for a survey required by these Regulations,
 - (b) “qualified person” means—
 - (i) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990⁽¹²⁾,
 - (ii) a person who is an advocate or solicitor in Scotland of at least 10 years’ standing, or
 - (iii) a person who is a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland of at least 10 years’ standing,
 - (c) “responsible person” means—
 - (i) the Certifying Authority responsible under regulation 11 or 12 for the issue of the appropriate certificate in connection with which a survey required by these Regulations is carried out, or
 - (ii) in the case of a dispute relating to an additional survey required by regulation 10, the Certifying Authority which issued the appropriate certificate in respect of the ship.

Miscellaneous provisions relating to appropriate certificates

- 18.**—(1) The Secretary of State may cancel an appropriate certificate issued in respect of a ship to which this paragraph applies, where the Secretary of State has reason to believe that—
- (a) the appropriate certificate was issued on false or erroneous information, or
 - (b) since the completion of any survey required by these Regulations, the equipment or machinery of the ship has sustained damage or is otherwise deficient.
- (2) The Secretary of State may require that an appropriate certificate issued in respect of a ship to which this paragraph applies, and which has expired or which has been cancelled, is to be surrendered within such time and in such manner as he may in writing direct.
- (3) In relation to a ship to which this paragraph applies, no person may—
- (a) intentionally alter an appropriate certificate,
 - (b) intentionally make a false appropriate certificate,
 - (c) knowingly or recklessly provide false information in connection with a survey required under these Regulations,
 - (d) with intent to deceive, use or lend an appropriate certificate or permit an appropriate certificate to be used by another person,

(12) 1990 c.41, to which there are amendments not relevant to these Regulations.

(e) fail to surrender an appropriate certificate where required to do so pursuant to paragraph (2), or

(f) in Scotland, forge an appropriate certificate.

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

Prohibition on non United Kingdom ships proceeding to sea without an IAPP Certificate

19.—(1) A ship to which this paragraph applies must not proceed to sea from a port in the United Kingdom unless—

(a) an IAPP certificate has been issued pursuant to Annex VI in respect of that ship and is still valid,

(b) a surveyor of ships is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment, or

(c) a person having power to detain the ship has permitted the ship to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(2) A ship to which this paragraph applies must not proceed to sea from a port in the United Kingdom unless documentation has been issued in respect of that ship which is still valid and shows that—

(a) a survey has been carried out in respect of the ship as if regulation 5 applied to the ship, and

(b) a surveyor of ships is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment, or a person having powers to detain the ship has permitted the ship to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard available.

PART 3

Control of emissions from ships

Ozone-depleting substances

20.—(1) The deliberate emission of an ozone-depleting substance from a ship is prohibited.

(2) For the purposes of this regulation “deliberate emission” includes an emission occurring in the course of maintaining, servicing, repairing or disposing of systems or equipment, but does not include minimal releases associated with the recapture or recycling of an ozone-depleting substance.

(3) New installations which involve the introduction on a ship, other than a United Kingdom ship, of an ozone-depleting substance are prohibited.

(4) Prior to 1st January 2020, paragraph (3) has effect as if after “substance” there were inserted “other than hydrochlorofluorocarbons”.

Nitrogen oxides

21.—(1) Subject to paragraph (2), this regulation applies to—

(a) every diesel engine with a power output of more than 130 kW which is installed on a ship constructed on or after 1st January 2000; and

(b) every diesel engine with a power output of more than 130 kW which is installed on a ship and which undergoes or has undergone a major conversion on or after 1st January 2000.

(2) This regulation does not apply to any engine referred to in Schedule 2.

(3) Where a diesel engine is installed on a United Kingdom ship engaged solely in voyages to ports or offshore terminals within United Kingdom waters, and—

- (a) that ship was constructed; or
- (b) the engine underwent a major conversion,

before 19th May 2005, the Secretary of State may on application by the owner of the ship direct that this regulation does not apply to that engine.

(4) Subject to paragraph (7), the operation of a diesel engine is prohibited, except where the emission of nitrogen oxide (calculated as the total weighted emission of NO₂) from the engine is no more than—

- (a) 17.0 g/kWh when n is less than 130 rpm;
- (b) $45.0 \times n^{-0.2}$ g/kWh when n is 130 or more but less than 2000 rpm;
- (c) 9.8 g/kWh when n is 2000 rpm or more,

where n = rated engine speed (crankshaft revolutions per minute).

(5) When assessing under paragraph (4) the emission of nitrogen oxide from a diesel engine using fuel composed of blends of hydrocarbons derived from petroleum refining, the test procedure and measurement methods must be in accordance with the NO_x Technical Code.

(6) The owner of a ship must ensure that the emission of nitrogen oxide from a diesel engine that is installed on that ship and that has undergone a major conversion is recorded in accordance with the NO_x Technical Code and approved by the Certifying Authority.

(7) Notwithstanding paragraph (4), the operation of a diesel engine is permitted when either an exhaust gas cleaning system or any other equivalent method, approved in accordance with Merchant Shipping Notice 1734 (M+F) or Merchant Shipping Notice 1735 (M+F) as appropriate, is applied to the engine to meet the emission standards in paragraph (4).

(8) In this regulation “major conversion” means a modification of an engine where—

- (a) the engine is replaced by a new engine built on or after 1st January 2000; or
- (b) any substantial modification, as defined in the NO_x Technical Code, is made to the engine; or
- (c) the maximum continuous rating of the engine is increased by more than 10 per cent.

Sulphur oxides

22.—(1) Subject to paragraph (2), the sulphur content of any fuel oil used on board a ship must not exceed 4.5 per cent by mass.

(2) A ship within a sulphur oxide emission control area must comply with at least one of the following conditions—

- (a) the sulphur content of any fuel oil used on board the ship must not exceed 1.5 per cent by mass;
- (b) an approved exhaust gas cleaning system is applied to reduce the total emission of sulphur oxide, from both auxiliary and main propulsion engines, to 6.0g/kW h or less calculated as the total weight of sulphur dioxide emission;
- (c) any other technological method to limit sulphur oxide emissions is used that has been approved for the purposes of these Regulations by the Secretary of State in accordance with the provisions of a Merchant Shipping Notice.

(3) The master of any ship using separate fuel oils to comply with paragraph (2)(a) must—

- (a) allow sufficient time for the fuel oil service system to be fully flushed of all fuels containing sulphur exceeding 1.5 per cent by mass prior to entry into a sulphur oxide emission control area; and
- (b) record the date, time and position of the ship when any fuel changeover operation is completed and the volume in each tank at that time of the fuel oils having a sulphur content of 1.5 per cent or less by mass.

(4) The master must ensure that waste streams from the use of equipment approved pursuant to paragraph (2)(b) are not discharged into a port, harbour or estuary unless it is thoroughly documented that those waste streams will have no adverse impact on the ecosystem of the port, harbour or estuary.

(5) The master of a United Kingdom ship making a record pursuant to paragraph (3)(b) must make it in a log book in the format prescribed in Appendix 6 to Merchant Shipping Notice 1819 (M+F).

(6) In this regulation “approved exhaust gas cleaning system” means an exhaust gas cleaning system approved in accordance with Merchant Shipping Notice 1734 (M+F) or Merchant Shipping Notice 1735 (M+F) as appropriate.

Volatile organic compounds

23.—(1) The operation by a harbour authority or terminal operator of a vapour emission control system for volatile organic compounds is prohibited unless the Secretary of State has given his written approval for that system.

(2) A harbour authority or terminal operator operating a vapour emission control system for volatile organic compounds must comply with Schedule 4 to Merchant Shipping Notice 1819 (M+F).

(3) The owner and master of a United Kingdom tanker subject to vapour emission control in a harbour or terminal notified to the IMO as a designated harbour or terminal pursuant to the Convention must comply with Schedule 4 to Merchant Shipping Notice 1819 (M+F).

(4) The owner and master of any tanker, other than a United Kingdom tanker, in United Kingdom waters that is subject to vapour emission control in a harbour or terminal designated by the Secretary of State must ensure that the tanker is fitted with an approved vapour emission collection system that is fully operational.

(5) In paragraph (4) an approved vapour emission collection system is a vapour emission system that has been approved by the flag state pursuant to Annex VI.

(6) The master shall, on demand, produce to the harbour authority, terminal operator or surveyor evidence of the approval referred to in paragraph (5).

(7) This regulation only applies to a gas carrier if the type of loading and containment systems allow safe retention of non-methane volatile organic compounds on board or their safe return ashore.

Shipboard incineration

24.—(1) Subject to paragraph (6), all shipboard incineration must take place in a shipboard incinerator.

(2) Subject to paragraph (12), the owner of a ship on which a shipboard incinerator was installed after 31st December 1999 shall, on demand, demonstrate to a surveyor that the incinerator complies with Merchant Shipping Notice 1734 (M+F).

(3) Where a shipboard incinerator was installed on or before 18th May 2005 on a United Kingdom ship solely engaged in voyages within United Kingdom waters, the Secretary of State may on application by the owner direct that paragraph (2) does not apply to that incinerator.

(4) Shipboard incineration of the following is prohibited—

- (a) the residues of any substances or materials referred to in Annex I, II or III of the Convention which have been carried as cargo in the ship and any related contaminated packing materials;
 - (b) polychlorinated biphenyls;
 - (c) garbage containing more than traces of heavy metals; and
 - (d) refined petroleum products containing halogen compounds.
- (5) In this regulation “garbage” means all kinds of victual, domestic and operational wastes generated during the normal operation of a ship and liable to be disposed of continuously or periodically, but does not include fresh fish and parts thereof or sewage.
- (6) While a ship is in a port, harbour or estuary, shipboard incineration of sewage sludge and sludge oil generated during the normal operation of the ship must not take place in the main or auxiliary power plant or boiler.
- (7) Shipboard incineration of polyvinyl chlorides is prohibited except in a shipboard incinerator for which a Type Approval Certificate, has been issued in accordance with Merchant Shipping Notice 1734 (M+F).
- (8) A ship with a shipboard incinerator installed on it must at all times carry an operating manual of the manufacturer of that incinerator, which specifies how to operate the incinerator within the limits described in Schedule 5 to Merchant Shipping Notice 1819 (M+F).
- (9) Every person responsible for the operation of a shipboard incinerator must be trained and capable of implementing the guidance provided in the manufacturer’s operating manual.
- (10) Combustion flue gas outlet temperatures must be monitored at all times and the waste must not be fed into a continuous-feed shipboard incinerator when the temperature is below 850°C.
- (11) No batch-loaded shipboard incinerator is to be used if the temperature in the combustion chamber fails to reach 600°C within 5 minutes of start-up.
- (12) The Secretary of State may approve the design, installation and operation of alternative shipboard thermal waste treatment devices that meet or exceed the requirements of this regulation for use instead of one issued in accordance with Merchant Shipping Notice 1734 (M+F).

Fuel oil quality

- 25.**—(1) This regulation does not apply to—
- (a) coal in its solid form;
 - (b) nuclear fuels;
 - (c) any hydrocarbon which is produced on a platform and used on that platform as fuel, if that use has been approved by the Secretary of State.
- (2) A fuel oil supplier must ensure that fuel oil for combustion purposes delivered to a relevant ship for use on board that ship meets the requirements in paragraph (4) or (5) as applicable.
- (3) The master of a relevant ship must ensure that fuel oil for combustion purposes used on board that ship meets the requirements of paragraph (4) or (5).
- (4) Where the fuel oil is blends of hydrocarbons derived from petroleum refining, it must not—
- (a) incorporate more than a small amount of additives intended to improve some aspects of performance;
 - (b) contain inorganic acid;
 - (c) include any added substance or chemical waste which—
 - (i) jeopardises the safety of the relevant ship;
 - (ii) adversely affects the performance of the machinery;

- (iii) is harmful to personnel; or
 - (iv) causes increased air pollution.
- (5) Fuel oil for combustion purposes derived by methods other than petroleum refining must not—
 - (a) exceed the appropriate sulphur content limit;
 - (b) cause an engine to exceed the nitrogen oxide emission limits in regulation 21(4);
 - (c) contain any inorganic acid;
 - (d) jeopardise the safety of the relevant ship or adversely affect the performance of the machinery;
 - (e) be harmful to personnel; or
 - (f) include any added substance or chemical which causes additional air pollution.
- (6) For the purposes of paragraph (5), the appropriate sulphur content limit means—
 - (a) in the case fuel oil intended to be used in a sulphur oxide emission control area, not more than 1.5%,
 - (b) in the case of fuel oil not intended to be used in a sulphur oxide emission control area, not more than 4.5%.
- (7) A local supplier of fuel oil for combustion purposes delivered to and used on board a relevant ship must—
 - (a) register with the Secretary of State in accordance with the provisions of Schedule 7 to Merchant Shipping Notice 1819 (M+F);
 - (b) provide the master of the relevant ship with a bunker delivery note containing the information set out in Schedule 3;
 - (c) provide a declaration in the bunker delivery note that is signed by the fuel oil supplier's representative that the fuel oil supplied conforms with regulations 14(1) or 14(4)(a) (as applicable) and 18(1) of Annex VI;
 - (d) retain a copy of the bunker delivery note for three years from the date of delivery; and
 - (e) not contaminate or blend the fuel so that it no longer conforms with the declaration required by sub-paragraph (c).
- (8) The master of a relevant ship must—
 - (a) ensure that the bunker delivery note is kept on board the ship in a place so as to be readily available for inspection at all reasonable times;
 - (b) when requested by an inspector appointed by the Secretary of State to do so, certify whether any copy of the bunker delivery note is a true copy of the original; and
 - (c) ensure that the bunker delivery note is retained for a period of three years from the day on which the fuel oil has been delivered on board.
- (9) The local supplier's representative must provide a representative sample of the fuel oil delivered to accompany the bunker delivery note, and that sample must—
 - (a) be collected in accordance with Schedule 7 and Appendix 1 to Merchant Shipping Notice 1819 (M+F);
 - (b) on completion of bunkering operations be sealed and signed by the local supplier's representative and the master or officer in charge of the bunkering operation; and
 - (c) be retained under the control of the master or owner of the ship for not less than twelve months starting with the day of delivery or until the fuel oil is substantially consumed if the fuel oil is not consumed in less than twelve months.

(10) The bunker delivery note and the sample of fuel oil required under paragraphs (7), (8) and (9) must be available for inspection and verification at all reasonable times in accordance with Schedule 7 to Merchant Shipping Notice 1819 (M+F).

(11) The bunker delivery note required under paragraphs (7) and (8) must be available for copies to be made at all reasonable times.

(12) In this regulation—

- (a) “fuel oil supplier” means a person who is responsible for the final blend of fuel oil supplied to a local supplier of fuel oil;
- (b) “fuel oil supplier’s representative” means a person appointed by a fuel oil supplier to provide a declaration on the bunker delivery note that the fuel supplied complies with regulations 14(1) or 14(4)(a) (as applicable) and 18(1) of Annex VI;
- (c) “local supplier of fuel oil” means a person who receives fuel oil with a view to its delivery to and use on board a relevant ship; and
- (d) “local supplier’s representative” means a person who delivers fuel oil to a relevant ship on behalf of a local supplier of fuel oil; and
- (e) “relevant ship” means—
 - (i) a platform; or
 - (ii) a ship, other than a platform, of 400GT or above.

PART 4

Inspections, Detentions and Offences

Inspection of ships

26.—(1) In so far as sections 258 and 259 of the 1995 Act (**13**) (powers to inspect ships and their equipment, powers of inspectors in relation to premises and ships) apply in relation to a ship to which any of these Regulations apply, for the purposes of checking compliance with these Regulations those sections have effect subject to the following modifications.

(2) The power in those sections to inspect a ship and its equipment, any part of the ship, any articles on board and any documentation carried in the ship, is limited to—

- (a) verifying whether an appropriate certificate has been issued in respect of the ship and is still valid,
- (b) verifying whether documentation referred to in regulation 19(2) (“appropriate documentation”) has been issued in respect of the ship and is still valid,
- (c) investigating any operation regulated by these Regulations, if there are clear grounds for believing that the master or the crew are not familiar with essential shipboard procedures relating to the prevention of air pollution,
- (d) verifying whether the ship has emitted any substances in violation of these Regulations,
- (e) inspecting the log book entries required under regulation 22(5), or
- (f) inspecting bunker delivery notes that are to be made available for inspection under regulation 25(8)(a),

(13) Section 258 was amended by the Merchant Shipping and Maritime Security Act 1997 (c.28), Schedule 1, paragraph (4).

except where there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the appropriate certificate or other appropriate documentation referred to in sub-paragraph (a) and (b).

(3) The power in those sections to go on board a ship may only be exercised if the ship in question is in a port or offshore terminal in the United Kingdom.

(4) Where the ship is inspected for the purposes of paragraph (2)(d) and is not a United Kingdom ship, the person exercising the powers of inspection must ensure that the report of the inspection is sent to—

- (a) the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State, and
- (b) any other Party to the Convention that requested the inspection.

(5) Where log book entries are inspected under paragraph (2)(e), or bunker delivery notes are inspected under paragraph (2)(f), the person exercising the power of inspection may—

- (a) make a copy of an entry in that book, and
- (b) require the master of the ship to certify that the copy is a true copy of the original.

(6) Any copy certified in accordance with paragraph (5) is to be admissible in any judicial proceeding as evidence of the facts stated in it.

Investigation of alleged violations by United Kingdom ships

27. Upon receiving evidence that a United Kingdom ship has emitted a substance in violation of these Regulations the Secretary of State must—

- (a) cause the matter to be investigated,
- (b) inform the IMO of the action taken, and
- (c) where another State has reported the violation, inform that State of the action taken.

General provisions on detention

28.—(1) Where regulation 16(1) has effect in relation to a ship, or a surveyor of ships has clear grounds for believing that—

- (a) an appropriate certificate is required to have been issued in respect of a ship but has not been issued, or has been issued and is not valid,
- (b) documentation referred to in regulation 19(2) (“appropriate documentation”) is required to have been issued in respect of a ship but has not been issued, or has been issued but is not valid,
- (c) the condition of a ship or its equipment does not correspond substantially with the particulars of that certificate or other appropriate documentation,
- (d) the master or crew of a ship are not familiar with essential shipboard procedures relating to the prevention of air pollution, or
- (e) an offence under regulation 32(1)(a) to (e) is being committed in respect of the ship,

the ship is liable to be detained until a surveyor of ships is satisfied that it can proceed to sea without presenting any unreasonable threat of harm to the marine environment.

(2) But a person having powers to detain a ship may permit a ship which is liable to be detained under paragraph (1) to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard available.

(3) Where a surveyor of ships has clear grounds for believing that an offence comprising a contravention of regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7) has been committed in respect of a ship, the ship is liable to be detained.

(4) The power under this regulation to detain a ship may only be exercised if the ship in question is in a port or offshore terminal in the United Kingdom.

(5) Section 284 of the 1995 Act⁽¹⁴⁾ (enforcing detention of a ship) applies where a ship is liable to be detained under the preceding provisions of this regulation as if—

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

(6) Where a ship is liable to be detained under the preceding provisions of this regulation, the person detaining the ship must serve on the master of the ship 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 1995 Act.

(7) Where a ship other than a United Kingdom ship is detained, the Secretary of State must immediately inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.

(8) Where a ship is detained under paragraph (3), a person having power to detain the ship must, at the request of the owner, master, demise charterer or manager, immediately release the ship—

- (a) if no proceedings for an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7) are instituted within the period of seven days beginning with the day on which the ship is detained,
- (b) if proceedings for any offence under those regulations having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted,
- (c) if either—
 - (i) the sum of £30,000 is paid to the Secretary of State by way of security, or
 - (ii) security which, in the opinion of the Secretary of State, is satisfactory and is for an amount not less than £30,000 is given to the Secretary of State,

by or on behalf of the owner, manager, demise charterer or master.

- (d) where the owner, manager, demise charterer or master is convicted of an offence under that regulation, if any costs or expenses ordered to be paid by that person, and any fine imposed on that person, have been paid, or
- (e) the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea⁽¹⁵⁾, and any bond or other financial security ordered by such court or tribunal is posted.

(9) The Secretary of State must repay any sum paid in pursuance of paragraph (8)(c) or release any security so given—

- (a) if no proceedings for an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3), or (4), 24(1), (4) or (7) are instituted within the period of seven days beginning with the day on which the sum is paid, or

⁽¹⁴⁾ Section 284 was amended by the Maritime Shipping and Maritime Security Act 1997 (c.28), Schedule 1.

⁽¹⁵⁾ Cmnd 8941.

(b) if proceedings for any such offence, having been instituted within that period, are concluded without the owner, manager or demise charterer or master being convicted.

(10) Where a sum has been paid, or security has been given, by any person in pursuance of paragraph (8)(c) and the owner, manager, demise charterer or master is convicted of an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7), the sum so paid or the amount made available under the security must be applied as follows—

(a) first in payment of any costs or expenses ordered by the court to be paid by the owner, manager, demise charterer or master, and

(b) next in payment of any fine imposed by the court,

and any balance must be repaid to the first-mentioned person.

(11) Section 145 of the 1995 Act (**16**) (interpretation of section 144) applies for the purposes of paragraphs (8) to (10) as if—

(a) references to the master or owner of the ship were references to the owner, manager, demise charterer or master, and

(b) references to an offence under section 131 were references to an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7).

Power for harbour master to detain

29.—(1) Where the harbour master of a harbour in the United Kingdom has clear grounds for believing that an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), 24(4) or (7) has been committed the harbour master may detain that ship.

(2) Section 144(2) and (3) of the 1995 Act (harbour master's power of detention of ships for certain offences) applies to a detention under paragraph (1) as it applies to a detention under section 144(1) of the 1995 Act.

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

(a) states the grounds for the detention, and

(b) requires the terms of the notice to be complied with until the ship is released by the harbour authority.

(4) Where a ship is detained under paragraph (2), the harbour master must immediately release the ship—

(a) if no proceedings for an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7) are instituted within the period of seven days beginning with the day on which the ship is detained,

(b) if proceedings for an offence under that regulation, having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted,

(c) if either—

(i) the sum of £30,000 is paid to the harbour authority by way of security, or

(ii) security which, in the opinion of the harbour authority, is satisfactory and is for an amount not less than £30,000 is given to the harbour authority,

by or on behalf of the owner, manager, demise charterer or master,

- (d) where the owner, manager, demise charterer or master is convicted of an offence under any of those regulations if any costs or expenses ordered to be paid by that person, and any fine imposed on that person, have been paid, or
 - (e) the release is ordered by a court or tribunal referred to in article 292 of the United Nations Convention on the Law of the Sea 1982, and any bond or other financial security ordered by such court or tribunal is posted.
- (5) The harbour authority must repay any sum paid in pursuance of paragraph (4)(c) or release any security so given—
- (a) if no proceedings for an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3), or (4), 24(1), (4) or (7) are instituted within the period of seven days beginning with the day on which the sum is paid, or
 - (b) if proceedings for any offence, having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted.
- (6) Where a sum has been paid, or security has been given, by any person in pursuance of paragraph (4)(c) and the owner, manager, demise charterer or master is convicted of an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7), the sum so paid or the amount made available under the security must be applied as follows—
- (a) first in payment of any costs or expenses ordered by the court to be paid by the owner, manager, demise charterer or master, and
 - (b) next in payment of any fine imposed by the court,
- and any balance must be repaid to the first-mentioned person,
- (7) Section 145 of the 1995 Act (interpretation of section 144) applies for the purposes of paragraphs (4) to (6) as if—
- (a) references to the master or owner of the ship were references to the owner, manager, demise charterer or master, and
 - (b) references to an offence under section 131 were references to an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7).

Duty of harbour master to report deficient ships

30. If the harbour master of a harbour in the United Kingdom has reason to believe that a ship is about to enter or leave the harbour and does not comply with the requirements of these Regulations, the harbour master must immediately report the matter to the Secretary of State.

Right of appeal and compensation

31.—(1) — Regulations 11 and 12 of the 1995 Regulations (right of appeal and compensation) apply in relation to the exercise of the powers of detention under these Regulations as they apply in relation to the exercise of those powers under Part 1 of those Regulations, subject to the modifications referred to in paragraph (2).

(2) The modifications are—

- (a) references to “inspector” are to be taken as references to the authority detaining the ship or the harbour master, as the case may be,
- (b) references to “access refusal notice”, “service of access refusal notice” and “refusal of access” are to be omitted, and
- (c) in regulation 12(2) after “State” there is added “, except where the ship is detained by a harbour master, in which case any compensation awarded under this section shall be payable by the harbour authority.”.

Offences

32.—(1) Any contravention of—

- (a) regulation 5(1), 6(1), 7(1), 8(1), 9(1), (2) or (3), 10(2), 18(4), 19(1) or (2), 20(3), 23(3) or (4) or 25(9)(c) of these Regulations is an offence by the owner and by the master of the ship in question,
- (b) regulation 18(5), 21(6) or 24(2) is an offence by the owner of the ship in question,
- (c) regulation 20(1), 21(4), 22, 23(6), 24(1), (4), (6), (7), (8) (9), (10) or (11), 25(3), (4), (5), (8), (10) or (11) is an offence by the master of the ship in question;
- (d) regulation 15(5) or 19 is an offence by the owner, manager, demise charterer and master of the ship in question;
- (e) regulation 18(3) is an offence by the person in question;
- (f) regulation 23(1) or (2) is an offence by the harbour authority or terminal operator in question;
- (g) regulation 25(2) is an offence by the fuel oil supplier in question;
- (h) regulation 25(7) or (9)(a) or (b) is an offence by the local supplier of fuel oil in question.

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

- (a) on summary conviction by a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment by a fine.

(3) A fuel oil supplier’s representative who makes a false declaration in a bunker delivery note is guilty of an offence and punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine.

(4) Where an offence under these Regulations is committed, or would be committed save for the operation of regulation 37(1), by any person due to the act or default of some other person, that other person is also guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this paragraph whether or not proceedings are taken against the first person.

(5) “Fuel oil supplier’s representative”, “fuel oil supplier” and “local supplier of fuel oil” have the same meaning as in regulation 25.

Service of documents of foreign companies

33. Section 143(6) of the 1995 Act (service of documents on foreign companies required or authorised by any statutory provision in connection with proceedings for an offence under section 131 of the 1995 Act) applies to proceedings for an offence under these Regulations as it applies to proceedings for an offence under section 131 as if—

- (a) the reference for section 131 were to these Regulations,
- (b) in the case of an offence in respect of a ship other than a platform, the reference to the owner were to the owner, manager or demise charterer, and
- (c) in the case of an offence in respect of a platform the reference to—
 - (i) the owner of the ship were to the owner of the platform, and
 - (ii) the master of the ship were to the manager of the platform.

Enforcement and application of fines

34. Section 146 of the 1995 Act (enforcement and application of fines) applies to any fine for an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4) or 24(1), (4) or (7) as if—

- (a) in subsection (1) of that section the reference to proceedings against the owner or master of a ship for an offence under Chapter 2 were a reference to proceedings against the owner, master, demise charterer or manager for an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4) or 24(1), (4) or (7), and
- (b) in subsection (2) of that section, the reference to an offence under section 131 were a reference to an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 24(3) or (4) or 24(1), (4) or (7).

Restriction on jurisdiction over offences outside United Kingdom limits

35.—(1) Where there has been an offence of a provision of regulation 21(4) or 22(1) or (2) in respect of a ship which is not a United Kingdom ship in the internal waters, territorial sea or exclusive economic zone of a foreign State, proceedings in respect of that offence must not be instituted in the United Kingdom unless—

- (a) that foreign State, the flag State of the ship in question or a State polluted or threatened with pollution as a result of the offence requests that proceedings be taken, or
- (b) the offence has caused or is likely to cause air pollution in controlled waters or United Kingdom waters.

(2) Where proceedings have been instituted but not concluded, they must be suspended upon the request of the foreign State in question and the Secretary of State must send all the evidence, court records and documents relating to the case, together with any sum paid or security given, to the foreign State.

(3) In this regulation “foreign State” means a State other than the United Kingdom.

Suspension of proceedings at flag state request

36.—(1) This regulation applies to proceedings instituted but not concluded in the United Kingdom in respect of a contravention of regulation 21(4) or 22(1) or (2) committed outside United Kingdom waters by a ship which is not a United Kingdom ship.

(2) Subject to paragraph (3), any proceedings must be suspended if the court is satisfied that the flag State of the ship in question has instituted proceedings corresponding to the proceedings in the United Kingdom in respect of the contravention of that provision within six months of the institution of the proceedings by the United Kingdom.

(3) Paragraph (2) does not apply—

- (a) where the contravention of regulation 21(4) or 22(1) or (2) resulted in serious pollution to the United Kingdom; or
- (b) the Secretary of State certifies that the flag State in question has repeatedly disregarded its obligation to enforce effectively the requirements of the Convention in respect of its ships.

(4) Where proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings must be terminated.

Defences

37.—(1) In any proceedings for an offence under these Regulations, it is a defence for the person charged to prove that person took all reasonable steps and exercised all due diligence to ensure that the regulation in question was complied with.

(2) Without prejudice to paragraph (1), in any proceedings for an offence under regulation 22(4) or 23(1) or (2) it is a defence for the person charged to prove that—

- (a) the ship was not a United Kingdom ship,

- (b) the emission took place in waters that were neither controlled waters nor United Kingdom waters.
- (c) the ship was in a port in the United Kingdom at the time of the institution of proceedings by reason only of stress of weather or any other reason beyond the control of the master or owner or any charterer or manager.

Signed by authority of the Secretary of State for Transport

12th November 2008

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport