
STATUTORY INSTRUMENTS

2008 No. 3257

The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008.

(2) These Regulations come into force on 1st February 2009.

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” has the meaning given in regulation 10(4);

“Annex IV” means Annex IV to the Convention, being the Annex IV adopted by the Marine Environment Protection Committee of the IMO by resolution MEPC.115(51) on 1st April 2004, and includes—

(a) all the 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;

“Annex V” means Annex V to the Convention, being the Annex V constituting part of attachment 1 to the final act of the International Conference on Maritime Pollution signed in London on 2nd November 1973, and includes—

(a) all the 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;

“Antarctic area” means the sea area south of latitude 60° S;

“certified”, in relation to a ship, means certified in accordance with the Merchant Shipping (Survey and Certification) Regulations 1995(2);

(1) S.I. 1995/3128, amended by S.I. 1998/1433, 1998/2198, 2001/2349 and 2003/1636.

(2) S.I. 1995/1210, amended by S.I. 1996/2418, 1996/3188, 2000/1334, 2000/2687, 2002/1473, 2003/771, 2004/302, 2004/1107, 2004/2883, and 2005/2114.

“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⁽³⁾;

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

“the Convention” means the International Convention for the Prevention of Pollution from Ships 1973 (including its protocols, annexes and appendices thereto)⁽⁴⁾ as amended by the Protocols of 1978⁽⁵⁾ and 1997⁽⁶⁾ and includes—

- (a) all the amendments to that Convention 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 Convention which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“controlled waters” means the waters specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996⁽⁷⁾ as areas within which the jurisdiction and rights of the United Kingdom are exercisable;

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

“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;

“ground or comminuted to the required standard”, in relation to general garbage or food wastes, means ground or comminuted sufficiently finely so as to be capable of passing through a screen with openings no greater than 25 millimetres;

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

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

“holding tank” means a tank used for the collection and storage of sewage;

“IMO” means the International Maritime Organization;

“infrastructure”, in relation to a ship, means the structure, equipment, systems, fittings, arrangements and material of that ship, which are the subject of requirements in Annex IV;

“initial survey” has the meaning given in regulation 7(3);

“international voyage” means a voyage from a country to which the Convention applies to a port outside that country, or conversely;

“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 a particular Merchant Shipping Notice includes a reference to a Merchant Shipping Notice amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time;

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

(4) Cmnd. 5748.

(5) Cmnd. 7347.

(6) Cmnd. 4427.

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

“nautical mile” means an international nautical mile of 1,852 metres;

“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;

“operational wastes” means all maintenance wastes, cargo associated wastes and cargo residues except residues or wastes from—

- (a) oil or oily mixtures,
- (b) noxious liquid substances,
- (c) non-polluting liquid substances, or
- (d) harmful substances in packaged form;

“plastics” includes synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products which may contain toxic or heavy metal residues;

“relevant platform” means a fixed or floating platform which is used in connection with the exploration, exploitation or associated offshore processing of seabed mineral resources;

“renewal survey” has the meaning given in regulation 8(3);

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

“Sewage Certificate” means an International Sewage Pollution Prevention Certificate referred to in Regulation 5 of Annex IV;

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

“ship in dedicated trades” means a ship which is on a scheduled service on a regular route;

“short international voyage” means an international 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;

“STCW” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978⁽⁸⁾, as amended in 1995 by resolution 1 of the STCW Conference⁽⁹⁾ convened at the IMO’s headquarters from 26th June to 7th July 1995; and

“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.

(2) For the purposes of these Regulations—

⁽⁸⁾ Cmnd. 9266.

⁽⁹⁾ Cmnd. 3772.

- (a) subject to paragraph (3), a “discharge”, in relation to sewage, means any release howsoever caused from a ship, and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying, and cognate expressions are to be construed accordingly;
 - (b) “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, sewage, or any other substance the disposal of which is prohibited or otherwise controlled under an Annex to the Convention other than Annex V; and
 - (c) “sewage” means—
 - (i) drainage and other wastes from any form of toilets and urinals,
 - (ii) drainage from medical premises (including, for example, a dispensary or sick bay) via wash basins, wash tubs and scuppers located in such premises,
 - (iii) drainage from spaces containing living animals, or
 - (iv) other waste waters when mixed with any drainage referred to in sub-paragraph (i), (ii) or (iii).
- (3) A “discharge” does not include—
- (a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, signed at London on 13th November 1972⁽¹⁰⁾, as amended by the 1996 Protocol⁽¹¹⁾, or
 - (b) the release of sewage for the purposes of legitimate scientific research into pollution abatement or control.
- (4) For the purposes of these Regulations, an “old ship” means a ship whose date of construction is before 2nd October 1983, and the date of construction of a ship is 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) For the purposes of these Regulations, a “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.
- (6) 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.

Meaning of “Special Area” in Part 5

3.—(1) Subject to paragraph (2), for the purposes of Part 5, a “Special Area” is any of the following areas, that is to say—

⁽¹⁰⁾ Cmnd. 5169.

⁽¹¹⁾ Cmnd. 4078.

- (a) the Antarctic area;
 - (b) the Baltic Sea area, which means 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 57°44.8' N;
 - (c) the Black Sea area, which means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41° N;
 - (d) the Gulfs area, which means the sea area located north-west of the rhumb line between Ras al Hadd (22°30' N, 59°48' E) and Ras al Fastej (25°04' N, 61°25' E);
 - (e) the Mediterranean Sea area, which means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41° N parallel and bounded to the west by the Straits of Gibraltar at the meridian 5°36' W;
 - (f) the North Sea area, which means the North Sea proper including the seas within the following boundaries—
 - (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;
 - (g) the Red Sea area, which means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12°28.5' N, 43°19.6' E) and Husn Murad (12°40.4' N, 43°30.2' E);
 - (h) the Wider Caribbean Region, which means the Gulf of Mexico and Caribbean Sea proper including the bays and seas therein and that portion of the Atlantic Ocean within the boundary constituted by the 30° N parallel from Florida eastward to 77°30' W meridian, thence a rhumb line to the intersection of 20° N parallel and 59° W meridian, thence a rhumb line to the intersection of 7°20' N parallel and 50° W meridian, thence a rhumb line drawn south-westerly to the eastern boundary of French Guiana.
- (2) An area referred to in paragraph (1)(c), (e), (g) or (h) is not a Special Area until such date as the IMO—
- (a) establishes, pursuant to paragraph (4)(b) of Regulation 5 of Annex V, as the date from which the requirements of that Regulation take effect in respect of the area in question, and
 - (b) publishes on the website of the IMO.

Meaning of “from the nearest land”

4. In these Regulations, “from the nearest land”, means—
- (a) in relation to all land other than that part of the north-eastern coast of Australia referred to in sub-paragraph (b), from the baseline from which the territorial sea of the territory in question is established in accordance with international law;
 - (b) in relation to the north-eastern coast of Australia, from a line drawn from a point on the coast of Australia in latitude 11°00' S, longitude 142°08' E to a point in latitude 10°35' S, longitude 141°55' E
 - thence to a point latitude 10°00' S, longitude 142°00' E,
 - thence to a point latitude 09°10' S, longitude 143°52' E,
 - thence to a point latitude 09°00' S, longitude 144°30' E,
 - thence to a point latitude 10°41' S, longitude 145°00' E,

thence to a point latitude 13°00' S, longitude 145°00' E,
 thence to a point latitude 15°00' S, longitude 146°00' E,
 thence to a point latitude 17°30' S, longitude 147°00' E,
 thence to a point latitude 21°00' S, longitude 152°55' E,
 thence to a point latitude 24°30' S, longitude 154°00' E,
 thence to a point on the coast of Australia in latitude 24°42' S, longitude 153°15' E,
 and “nearest land” is to be construed accordingly.

Revocations

5. The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1998(12) are revoked.

Application

6.—(1) Subject to paragraphs (16) to (20), the provisions of these Regulations apply as follows.

(2) Regulations 7 to 12, 14, 15, 16(1) to (5), 17, and 18(1) and (2) apply to a United Kingdom ship, wherever it may be, which is engaged in international voyages and is—

- (a) of 400 GT or above, or
- (b) certified to carry more than 15 persons.

(3) Regulations 13 and 19(1) apply to a ship which is—

- (a) not a United Kingdom ship,
- (b) registered in, or is not registered but is entitled to fly the flag of, a country whose Government is a Contracting Government”,
- (c) engaged in international voyages,
- (d) of 400 GT or above, or certified to carry more than 15 persons, and
- (e) in United Kingdom waters, or controlled waters.

(4) Regulation 16(6) applies to a ship which is—

- (a) not a United Kingdom ship,
- (b) engaged in international voyages,
- (c) of 400 GT or above, or certified to carry more than 15 persons, and
- (d) in a port or offshore terminal in the United Kingdom.

(5) Regulation 18(3) and (4) applies in relation to a ship which is—

- (a) a United Kingdom ship, wherever it may be, which is engaged in international voyages and is—
 - (i) of 400 GT or above, or
 - (ii) certified to carry more than 15 persons; or
- (b) not a United Kingdom ship, but is—
 - (i) engaged in international voyages,
 - (ii) of 400 GT or above, or certified to carry more than 15 persons, and
 - (iii) in United Kingdom waters, or controlled waters, or any other waters which are sea.

(6) Regulation 19(2) applies to a ship which satisfies all the criteria set out in paragraph (3) except for the criterion in paragraph (3)(b).

(7) Regulation 20 applies to a ship which is a United Kingdom ship but which does not satisfy all the other criteria set out in paragraph (2).

(8) Regulations 21 to 25 apply to a ship which is—

(a) a United Kingdom ship, wherever it may be, which is engaged in international voyages and is—

- (i) of 400 GT or above, or
- (ii) certified to carry more than 15 persons; or

(b) not a United Kingdom ship, but is—

- (i) engaged in international voyages,
- (ii) of 400 GT or above, or certified to carry more than 15 persons, and
- (iii) in United Kingdom waters, or controlled waters, or any other waters which are sea.

(9) Regulations 26 to 28 apply to a ship which is—

(a) a United Kingdom ship wherever it may be, or

(b) a ship other than United Kingdom ship, but which is in—

- (i) United Kingdom waters,
- (ii) controlled waters, or
- (iii) any other waters which are sea.

(10) Regulation 29 applies to a ship which is referred to in paragraph (9)(a) or (b) and is—

- (a) a relevant platform, or
- (b) alongside or within 500 metres of such a platform.

(11) Regulation 30 applies to a United Kingdom ship wherever it may be.

(12) Regulation 31 applies to a ship which is referred to in paragraph (9)(a) or (b) and has a length overall of 12 metres or more.

(13) In paragraph (12), “length overall” means the extreme length of the hull of the ship measured between the foremost part of the bow and the aftmost part of the stern.

(14) Regulation 32 applies to a ship which is referred to in paragraph (9)(a) or (b) and is—

- (a) of 400 GT or above, or
- (b) certified to carry 15 or more persons.

(15) Regulations 33 and 34 apply to a ship which is referred to in paragraph (9)(a) or (b) and is—

- (a) of 400 GT or above,
- (b) certified to carry 15 or more persons, and engaged in voyages to ports or offshore terminals under the jurisdiction of a Party to the Convention other than the ship’s flag State, or
- (c) a relevant platform.

(16) Regulation 35 applies to a ship which is referred to in paragraph (9)(a) or (b) and is—

- (a) certified to carry 15 or more persons, and engaged on a voyage whose duration is one hour or less, or
- (b) a relevant platform, while it is engaged in exploration and exploitation of the sea-bed.

(17) 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, only on government, non-commercial service.

(18) Regulation 21(2) does not apply to a ship other than an old ship.

- (19) Regulations 23 to 25 do not apply to—
 - (a) the discharge of sewage which is necessary for the purpose of—
 - (i) securing the safety of the ship,
 - (ii) securing the safety of those on board the ship, or
 - (iii) saving life at sea; or
 - (b) the discharge of sewage which results from damage to a ship or its equipment, except to the extent that the discharge is due to a failure to take all reasonable precautions before and after the occurrence of the damage, for the purpose of preventing or minimizing the discharge.
- (20) Regulations 26 to 29 do not apply to—
 - (a) the disposal of garbage which is necessary for the purpose of—
 - (i) securing the safety of the ship,
 - (ii) securing the safety of those on board the ship, or
 - (iii) saving life at sea;
 - (b) the escape of garbage which results from damage to a ship or its equipment, except to the extent that the escape is due to a failure to take all reasonable precautions before and after the occurrence of the damage, for the purpose of preventing or minimizing the escape; or
 - (c) the accidental disposal into the sea of synthetic fishing nets or synthetic material incidental to the repair of such nets, except to the extent that the disposal is due to a failure to take all reasonable precautions to prevent the loss.