STATUTORY INSTRUMENTS

2018 No. 68

MERCHANT SHIPPING

The Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018

Made - - - -	*5th February 2018*
Laid before Parliament	*15th February 2018*
Coming into force - -	*12th March 2018*

The Secretary of State makes the following Regulations in exercise of the powers conferred by articles 3 and 5 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987 [F1], article 2 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996 [F2] and sections 85(1), (1A), (1B), (3) and (5) to (7), 86(1), 302(1) and 306A of the Merchant Shipping Act 1995 [F3].

The Secretary of State has consulted such persons in the United Kingdom as the Secretary of State considers will be affected by the exercise of powers in this instrument in accordance with section 86(4) of the Merchant Shipping Act 1995.

These Regulations are made with the consent of the Treasury in so far as is required under section 302(1) of the Merchant Shipping Act 1995.

F1 S.I. 1987/470. Following the consolidation of section 20 of the Merchant Shipping Act 1979 (c. 39), **S.I**. 1987/470 has effect as if made under section 128 of the Merchant Shipping Act 1995 (c. 21). Article 3 is amended by S.I. 1990/2595. Article 5 was inserted by S.I. 1997/2569 and amended by S.I. 1998/254 and S.I. 2015/664. The effect of the Order is extended by the Merchant Shipping Act 1995, section 128(5), so as to authorise the making of regulations for the purpose of giving effect to agreements which modify the agreements described in section 128(1).

F2 S.I. 1996/282. Article 2 is amended by the Marine and Coastal Access Act 2009 (c. 23), **Schedule 4**, Part 1, paragraph 3. Article 3 is amended by S.I. 2015/664.

F3 1995 c. 21. Section 85 is amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), **sections 8** and 29 and Schedule 7, Part 1. Section 306A is inserted by the Deregulation Act 2015 (c. 20), **section 106**. There are other amendments but none is relevant. Sections 85 and 86 apply to hovercraft by virtue of article 4 of the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350).

PART 1

General

Citation, commencement, amendments and revocations

1.—(1) These Regulations may be cited as the Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018 and come into force on 12th March 2018.

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

(3) The Regulations listed in the first column of the Table in Part 2 of the Schedule are revoked to the extent specified in the third column of that table.

Transitional provision

2.—(1) Except in circumstances determined by the Secretary of State, a certificate issued or endorsed under Annex II by—

(a) an appropriate Certifying Authority; or

(b) the Administration of a Contracting State,

which is valid on the day on which these Regulations come into force, continues to be valid until the date of its expiry under regulation 10 of Annex II.

(2) A certificate referred to in paragraph (1) is to be treated as if it had been issued or endorsed under these Regulations.

(3) In this regulation—

(a) "appropriate Certifying Authority" means the Secretary of State or any person authorised by the Secretary of State and includes in particular (if so authorised) Lloyd's Register of Shipping, Bureau Veritas, Det Norske Veritas, Germanischer Lloyd, the American Bureau of Shipping, Registro Italiano Navale and Nippon Kaiji Kyokat; and

(b) regulation 3(6) does not apply.

Interpretation

3.—(1) In these Regulations—

"the 1995 Act" means the Merchant Shipping Act 1995;

"Annex II" means Annex II to the Convention [F4];

"anniversary date" means the day and month of each year which correspond to the date of expiry of a relevant NLS certificate;

"annual survey period" means the period of six months beginning three months before each anniversary date;

"approved" in relation to a Procedures and Arrangements Manual or Marine Pollution Emergency Plan means—

(a) in the case of a United Kingdom NLS ship, approved by a Certifying Authority as respects that ship; and

(b) in the case of any other NLS ship, approved by or on behalf of the government of the Contracting State in which the ship is registered;

[[F5]"BCH Code" has the same meaning as that given to "Bulk Chemical Code" in regulation 1 of Annex II[F6];**]**

"Cargo Record Book" has the meaning given in regulation 29(1);

"Certifying Authority", except in regulation 2, means the Secretary of State or any person authorised by the Secretary of State in accordance with paragraph (6);

"chemical tanker" means a cargo ship constructed or adapted for the carriage in bulk of any liquid substance listed in Chapter 17 of the IBC Code, but does not include an offshore support vessel or a gas carrier;

"constructed" in relation to a ship has the meaning in paragraph 14 of regulation 1 of Annex II;

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

"controlled waters" means the areas of sea specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 2014 [F7] as waters within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of the United Nations Convention on the Law of the Sea [F8] for the protection and preservation of the marine environment;

"the Convention" means the International Convention for the Prevention of Pollution from Ships, 1973 [F9];

"discharge", in relation to noxious liquid substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying, but does not include the release of noxious liquid substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources, or the release of such substances for purposes of legitimate scientific research into pollution abatement or control;

[[F10]"flag State", in relation to a ship, means the State whose flag the ship is entitled to fly;**]**

"gas carrier" means a cargo ship—

(a) for which a certificate certifying compliance with the IGC Code (an International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk) is in force;

(b) which is constructed or adapted for the carriage in bulk of any substance listed in Chapter 19 of the IGC Code and identified in that list by an asterisk; and

(c) which is not intended for, or engaged in, the carriage of any other noxious liquid substance in bulk;

"gross tonnage" means gross tonnage as determined in accordance with regulation 6 of the Merchant Shipping (Tonnage) Regulations 1997 [F11];

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

[[F12]"IBC Code" has the same meaning as that given to "International Bulk Chemical Code" in regulation 1 of Annex II;**]**

[[F13]"IGC Code" has the same meaning as that given to "International Gas Carrier Code" in regulation 11.1 of Chapter VII in the Annex to the International Convention for the Safety of Life at Sea, 1974;**]**

"IMO" means the International Maritime Organization;

"in bulk" means directly and without any intermediate form of containment in a tank forming an integral part of, or permanently located in, or on, a ship;

"intermediate survey period" means a period of six months beginning three months before the second or third anniversary date;

"Marine Pollution Emergency Plan" has the meaning given in regulation 30;

"Merchant Shipping Notice" means a Notice described as such, issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport), and includes a

reference to any document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

"nautical mile" means an international nautical mile of 1,852 metres;

"NLS ship" means a ship intended for, or engaged in, the carriage of noxious liquid substances in bulk;

"noxious liquid substance" means—

(a) any substance which has been categorised in accordance with the provisions of regulation 6 of Annex II and which is indicated in the Pollution Category column of chapter 17 or 18 of the IBC Code as falling within category X, Y or Z;

(b) any mixture containing a substance referred to in sub-paragraph (a);

(c) any substance which has been provisionally assessed as falling within category X, Y or Z in accordance with the provisions of regulation 6.3 of Annex II, and which is either—

(i) listed in MEPC.2/Circ. on the Provisional Categorisation of Liquid Substances in Accordance with Annex II and the IBC Code, issued on 1st December each year [F14]; or

(ii) in the case of any substance provisionally assessed after the publication of MEPC.2/Circ. in any given year but in advance of the publication of the next MEPC.2/Circ., publicised by the IMO [F15] as such; and

(d) any mixture containing a substance referred to in sub-paragraph (c);

"offshore installation" means fixed or floating platforms including drilling rigs, floating production, storage and offloading facilities used for the offshore production and storage of oil or noxious liquid substances, and floating storage units used for the offshore storage of produced oil;

"offshore support vessel" means—

(a) a vessel which is primarily engaged in the transport of stores, materials and equipment to and from mobile offshore drilling units, fixed or floating platforms or other similar offshore installations; or

(b) a vessel, including a well-stimulation vessel but excluding a mobile offshore drilling unit, derrick barge, pipelaying barge or floating accommodation unit, which is otherwise primarily engaged in supporting the work of offshore installations;

[[F16]"OSV Chemical Code" means the Code for the Transport and Handling of Hazardous and Noxious Liquid Substances in Bulk on Offshore Support Vessels;**]**

"OSV Guidelines" means the Guidelines for the Transport and Handling of Limited Amounts of Hazardous and Noxious Liquid Substances in Bulk on Offshore Support Vessels (OSV) [F17]... [F18];

"Polar Code" means the International Code for Ships Operating in Polar Waters, consisting of an introduction, parts I-A and II-A and parts I-B and II-B as adopted by IMO Resolutions MSC.385(94) and MEPC.264(68) [F19];

"polar waters" means the Antarctic area and Arctic waters and, for the purposes of this definition, the "Antarctic area" means the sea area south of latitude 60°S, and "Arctic waters" has the meaning given in regulation 21.2 of Annex II;

"Procedures and Arrangements Manual" has the meaning given in regulation 28;

"RO Code" means the Code for Recognised Organisations adopted on 17th May 2013 by IMO Resolution MEPC.237(65) [F20];

"sea" includes any estuary or arm of the sea;

"ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms;

"Shipboard Marine Pollution Emergency Plan" has the meaning given in regulation 30(4);

"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;

"United Kingdom NLS ship" means an NLS ship which is a United Kingdom ship; and

"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.

(2) In these Regulations—

(a) a reference to an initial, renewal, annual, intermediate or additional survey is a reference to an initial, renewal, annual, intermediate or, as the case may be, additional survey carried out—

(i) in the case of an NLS ship which is a chemical tanker constructed or adapted before 1st July 1986, in accordance with section 1.6 of the BCH Code;

(ii) in the case of an NLS ship which is a chemical tanker constructed or adapted on or after 1st July 1986, in accordance with section 1.5.2 of the IBC Code;

(iii) in the case of an NLS ship which is a gas carrier, in accordance with regulation 8.1 of Annex II;

[[F21](iv) in the case of an NLS ship which is an offshore support vessel constructed or adapted before 1st July 2018, in accordance with regulation 8.1 of Annex II and section 1.5 of the OSV Guidelines;

(iva) in the case of an NLS ship which is an offshore support vessel constructed or adapted on or after 1st July 2018, in accordance with regulation 8.1 of Annex II and section 1.4 of the OSV Chemical Code;**]**

(v) in the case of any other NLS ship, in accordance with regulation 8.1 of Annex II; and

(b) "relevant" in relation to a survey carried out in respect of an NLS ship means a survey described in any of sub-paragraph (a)(i) to (v) which is relevant to that ship.

(3) In these Regulations—

(a) "relevant NLS certificate" means a certificate drawn up in English and comprising—

(i) as respects an NLS ship which is a chemical tanker constructed or adapted before 1st July 1986, a BCH Code certificate in the form set out in the Appendix to the BCH Code issued and endorsed for a specified period in accordance with the requirements of that Code;

(ii) as respects an NLS ship which is a chemical tanker constructed or adapted on or after 1st July 1986, an IBC Code certificate in the form set out in the Appendix to the IBC