

*Draft Order laid before Parliament under section 128(8)(a) of the Merchant Shipping Act 1995, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2022 No. 0000**

**MARINE POLLUTION**

**The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Order 2022**

*Made* - - - - 2022

*Coming into force* - - 2022

At the Court at Buckingham Palace, the \*\*\* day of \*\*\* 2022

Present,

The Queen's Most Excellent Majesty in Council

By section 128(1)(e) of the Merchant Shipping Act 1995(a) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to any international agreement not mentioned in paragraphs (a) to (da) of section 128(1) which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships.

The International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004, including its Annex and Appendices(b), contains provisions relating to such matters and has been ratified by the United Kingdom.

A draft of this Order has, in accordance with section 128(8)(a) of the Merchant Shipping Act 1995, been laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly, Her Majesty, in exercise of the powers conferred by section 128(1)(e), (3) and (4) of the Merchant Shipping Act 1995, is pleased, by and with the advice of Her Privy Council, to order as follows.

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(a) 1995 c.21; there are amendments to section 128 which are not relevant to this instrument.

(b) This Convention was adopted on 13th February 2004 by the International Conference on Ballast Water Management for Ships, 2004, convened by the International Maritime Organization. It entered into force on 8th September 2017 and has been amended by IMO Resolutions MEPC.296(72), MEPC.297(72) and MEPC.299(72). The Convention (ISBN 978-92-801-60963) is available from IMO Publishing, 4 Albert Embankment, London SE1 7SR, [www.imo.org/publications](http://www.imo.org/publications); email: [sales@imo.org](mailto:sales@imo.org); telephone: 0207 735 7611. IMO Resolutions are available from the IMO Library, also of 4 Albert Embankment, London SE1 7SR.

### **Citation, commencement and extent**

1.—(1) This Order may be cited as the Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Order 2022 and comes into force on the 22nd day after the day on which it is made.

(2) This Order extends to England and Wales, Scotland and Northern Ireland.

### **Interpretation**

2. In this Order—

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

“the Convention” means the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004, including its Annex and Appendices.

### **Regulations to give effect to the Convention**

3. The Secretary of State may make regulations for the purpose of giving effect to the Convention.

### **Provisions supplementary to article 3**

4. Without prejudice to the generality of article 3, the regulations referred to in that article may in particular include provision—

- (a) with respect to the carrying out of surveys and inspections and the issue, duration and recognition of certificates;
- (b) with respect to—
  - (i) the application of the regulations to the Crown;
  - (ii) the extraterritorial operation of the regulations; and
  - (iii) the extension of the provisions of the regulations, with or without modification, to any relevant British possession;
- (c) that a specified contravention of the regulations is to be an offence punishable—
  - (i) on summary conviction in England and Wales with a fine;
  - (ii) on summary conviction in Scotland or Northern Ireland with a fine not exceeding the statutory maximum;
  - (iii) on conviction on indictment with a fine;
- (d) that any such contravention is to be an offence punishable only on summary conviction—
  - (i) in England and Wales with a fine;
  - (ii) in Scotland or Northern Ireland with a fine not exceeding level 5 on the standard scale;
- (e) in connection with offences created by the regulations, corresponding to the provision made in connection with offences under section 131 (discharge of oil from ships into certain United Kingdom waters) of the 1995 Act by sections—
  - (i) 143(6) (prosecutions and enforcement of fines);
  - (ii) 144 (power to detain ships for section 131 offences); and
  - (iii) 146 (enforcement and application of fines),

of the 1995 Act, whether by applying, or making provision for the application of, any of those sections, subject to such modifications as may be specified in the regulations; and

- (f) for detaining a ship in respect of which a contravention of the regulations is suspected to have occurred and, in relation to that ship, for applying section 284 (enforcing detention of ship) of the 1995 Act with such modifications as may be specified in the regulations.

*Name*  
Clerk of the Privy Council

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order enables regulations to be made to give effect to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004.

The Convention, including its Annex and Appendices, can be obtained from the International Maritime Organization at IMO Publishing, 4 Albert Embankment, London, SE1 7SR, [www.imo.org/publications](http://www.imo.org/publications); e-mail: [sales@imo.org](mailto:sales@imo.org); telephone 0207 735 7611.

An impact assessment has not been prepared for this instrument because there is no impact on the costs of business. An Explanatory Memorandum is available alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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