

2009 No. 1176

MERCHANT SHIPPING

The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) (Amendment) Regulations 2009

Made - - - - *2nd May 2009*

Coming into force - - *16th May 2009*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^(a) and sections 130A(1) and (2), 130B(1), (2) and (5) to (7), 130C(2) and (7) and 130D(1) and (2) of the Merchant Shipping Act 1995^(b).

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment and to maritime transport^(c).

In so far as these Regulations are made in exercise of the powers conferred by section 130A of the Merchant Shipping Act 1995, the Secretary of State has taken into account the need to give effect to the provisions referred to in subsection (2) of that section, and has consulted with the organisations referred to in section 306(4) of that Act.

A draft of this instrument has been laid before Parliament in accordance with paragraph 2 of Schedule 2 to the European Communities Act 1972 and section 130D(3) of the Merchant Shipping Act 1995, and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) (Amendment) Regulations 2009 and shall come into force 14 days after the day on which they are made.

Amendments

2.—(1) The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003^(d) are amended in accordance with the following paragraphs.

(2) In regulation 2(1)—

(a) after the definition of “relevant inspector”, insert—

(a) 1972 c.68; section 2 and paragraph 2 of Schedule 2 to the 1972 Act were amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51).

(b) 1995 c.21; sections 130A, 130B, 130C and 130D were inserted by section 5 of the Merchant Shipping and Maritime Security Act 1997 (c.28).

(c) S.I. 2008/301 and 1994/757.

(d) S.I. 2003/1809.

““sewage” means—

- (a) drainage and other wastes from any form of toilets and urinals,
- (b) drainage from medical premises (including, for example, a dispensary or sick bay) via wash basins, wash tubs and scuppers located in such premises,
- (c) drainage from spaces containing living animals, or
- (d) other waste waters when mixed with any drainage referred to in paragraph (a), (b) or (c);”;

(b) in the definition of “ship-generated waste”—

- (i) before “oil” insert “sewage,”; and
- (ii) omit “originating from ships”.

(3) In regulation 2(2)—

- (a) in sub-paragraph (b), for “member State” substitute “EEA State”; and
- (b) in sub-paragraph (c), for “a member State”, substitute “an EEA State”.

(4) At the end of regulation 2(4), add—

“(5) Any power under these Regulations to give a direction includes power to vary or revoke the direction by a subsequent direction.”.

(5) In regulation 11—

- (a) in paragraph (5)(a), for “a member State” substitute “an EEA State”; and
- (b) for paragraph (6), substitute—

“(6) Where the previous port of call of a United Kingdom ship was a port in an EEA State, the master of that ship calling at a port of another EEA State shall, immediately on request by the competent authority of the latter State, produce to that authority a copy of the notice retained in accordance with paragraph (4).”.

(6) In regulation 12, for paragraph (2) substitute—

“(2) A ship may proceed to the next port of call without delivering ship-generated waste if—

- (a) the ship-generated waste in question is sewage, and the master of the ship is not required under regulation 11 to notify information about that waste, or
- (b) subject to paragraph (3), it follows from the information notified under regulation 11(2) or (3) that there is sufficient dedicated storage capacity on board the ship to hold all the ship-generated waste that has been accumulated and all the ship-generated waste that will be accumulated during the intended voyage of the ship to the port of delivery.”.

(7) In regulation 17(2), for “member State”, substitute “EEA State”.

(8) In Schedule 2—

- (a) in the table, for the entries relating to “3. Cargo-associated waste” and “4. Cargo residues”, and for footnote “⁽¹⁾ May be estimates”, substitute—

“3. Sewage ⁽¹⁾					
4. Cargo-associated waste ⁽²⁾ (specify)					
5. Cargo residues ⁽²⁾ (specify)					

⁽¹⁾ Sewage may be discharged at sea in accordance with Regulation 11 of Annex IV of MARPOL 73/78. The corresponding boxes do not need to be completed if it is the intention to make an authorised discharge at sea.

⁽²⁾ May be estimates.”.

(b) in Note 2., for “Member States”, substitute “EEA States”.

Signed by authority of the Secretary of State for Transport

2nd May 2009

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to Directive 2000/59/EC of the European Parliament and of the Council (“the amended 2000 Directive”) on port reception facilities for ship-generated waste and cargo residues (O.J. L 332, 28.12.2000, p.81), as amended by Directive 2002/84/EC of the European Parliament and of the Council (O.J. L 324, 29.11.2002, p.53), and Commission Directive 2007/71/EC of 13th December 2007 (O.J. L 329, 14.12.2007, p.33), as regards the delivery of sewage to reception facilities in a United Kingdom harbour.

The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809) (“the 2003 Regulations”) already give effect to the other provisions of the amended 2000 Directive.

These Regulations amend the 2003 Regulations in order to give effect to the amended 2000 Directive, as regards the delivery of sewage to reception facilities in a United Kingdom harbour. The amendments are contained in *regulation 2* of these Regulations.

The definition of “ship-generated waste” in regulation 2(1) of the 2003 Regulations is amended to include ship-generated sewage (*regulation 2(2)(b)* of these Regulations, with a definition of “sewage” inserted by *regulation 2(2)(a)*). Consequently, the duty in regulation 4 of the 2003 Regulations to ensure the provision of adequate waste reception facilities will now cover ship-generated sewage as well as other prescribed waste. Similarly, the requirement in regulation 6 of the 2003 Regulations to prepare and submit a waste management plan for approval will also now cover reception facilities for sewage.

The requirement in the 2003 Regulations for the master of a ship bound for a harbour or terminal to notify the harbour or terminal of the waste on board the ship will now cover sewage as well as other forms of waste (*regulation 11* of the 2003 Regulations). The form of the notification is amended, in accordance with the amended 2000 Directive, so as to include sewage (*Schedule 2* to the 2003 Regulations, as amended by *regulation 2(8)(a)* of these Regulations).

The requirement in regulation 12 of the 2003 Regulations to deliver ship-generated waste to a waste reception facility will also now apply in relation to sewage, as will regulation 13 of the 2003 Regulations containing provision in relation to charges to be made for reception facilities for ship-generated waste.

The various references in the 2003 Regulations to “member State” have been amended by these Regulations to “EEA State”. This follows Article 1 of the Decision of the EEA Joint Committee No. 77/2001 of 19 June 2001 (O.J. L238 6.9.2001, p.27) to add Directive 2000/59 (O.J. L332, 28.12.2000, p.81) to Annex XIII of the EEA Agreement. (*Regulation 2(3), (5), (7) and (8)(b)* of these Regulations.)

These Regulations clarify the scope of the direction giving powers in the 2003 Regulations, so that where the 2003 Regulations provide a power to give a direction, this includes power to vary or revoke the direction by a subsequent direction (*regulation 2(4)*).

The Regulations are made under sections 130A to 130D of the Merchant Shipping Act 1995, except in so far as they relate to three matters: the requirement to provide information to a United Kingdom harbour in advance of a ship's arrival, the requirement on harbour authorities and terminal operators to charge for reception facilities, and the application of the Regulations to hovercraft. In these matters the power is provided by section 2(2) of the European Communities Act 1972.

An Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Shipping Policy 2 Division, Department for Transport, 76 Marsham Street, London SW1P 4DR (telephone number 020 7944 3436).

A transposition note has been prepared and copies may be obtained from the Department for Transport at the address above.

The Impact Assessment and the transposition note are annexed to the Explanatory Memorandum which is available alongside this instrument on the OPSI website www.opsi.gov.uk.

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