

2015 No. 430

ENVIRONMENTAL PROTECTION

HEALTH AND SAFETY

The Ship Recycling Facilities Regulations 2015

Made - - - - 23rd February 2015

Laid before Parliament 3rd March 2015

Coming into force - - 26th March 2015

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the environment(b).

The Secretary of State has consulted the Health and Safety Executive and the Office for Nuclear Regulation, as required by section 50(2) of the Health and Safety at Work etc. Act 1974(c) and makes these Regulations in exercise of the powers conferred by sections 15(1), (2) and (4)(a) and 43(2) of, and paragraphs 1(1)(c) and (2) and 4(1) of Schedule 3 to, that Act(d) and by section 2(2) of the European Communities Act 1972.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Ship Recycling Facilities Regulations 2015 and come into force on 26th March 2015.

(2) They do not apply to Northern Ireland.

Interpretation

2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the Agency”, in relation to a ship recycling facility, means—

(a) in England, the Environment Agency;

(a) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c. 7), the Schedule, Part 1. Under section 57(1) of the Scotland Act 1998 (c. 46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions in or as regards Scotland. Under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Wales.

(b) S.I. 2008/301.

(c) 1974 c. 37; section 50(2) was amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraph 16(2) and the Energy Act 2013 (c. 32), Schedule 12, Part 1, paragraph 11(3).

(d) Section 15(1) was substituted by the Employment Protection Act 1975, Schedule 15, paragraph 6 and amended by S.I. 2002/794. Section 15(2) was amended by the Energy Act 2013, Schedule 12, Part 1, paragraph 5(3). Section 15(4)(a) was amended by S.I. 2008/960.

(b) in Wales, the Natural Resources Body for Wales;

(c) in Scotland, the Scottish Environment Protection Agency;

“the EU Ship Recycling Regulation” means Regulation (EU) No 1257/2013 of the European Parliament and of the Council on ship recycling^(a);

“the European List” means the list of ship recycling facilities established under Article 16 of the EU Ship Recycling Regulation;

“the Executive” means the Health and Safety Executive;

“permit” means—

(a) in England and Wales, an environmental permit authorising the operation of a regulated facility under the Environmental Permitting (England and Wales) Regulations 2010^(b);

(b) in Scotland, means a waste management licence granted under Part II of the Environmental Protection Act 1990^(c) or a permit granted under the Pollution Prevention and Control (Scotland) Regulations 2012^(d);

“suspension notice” means—

(a) in England and Wales, a notice under regulation 37 of the Environmental Permitting (England and Wales) Regulations 2010;

(b) in Scotland, a notice to give effect to suspension of a licence under section 38(6) of the Environmental Protection Act 1990 or a notice under regulation 56 of the Pollution Prevention and Control (Scotland) Regulations 2012.

(2) Terms which are used in these Regulations that are used in the EU Ship Recycling Regulation have the meaning they bear in that Regulation.

Designation of competent authority

3. The Agency and the Executive acting jointly are the competent authority for the purposes of the EU Ship Recycling Regulation.

Authorisation of ship recycling facilities

4.—(1) The Agency’s functions in relation to a permit for a ship recycling facility include ensuring compliance with Articles 13 and 14 of the EU Ship Recycling Regulation, but the Agency must only exercise any such functions relating to health and safety with the consent of the Executive.

(2) A condition relating to health and safety to ensure compliance with Articles 13 and 14 of the EU Ship Recycling Regulation may be imposed by a permit for a ship recycling facility.

(3) A power to serve a suspension notice in relation to a permit for a ship recycling facility includes the power to serve a notice where the competent authority considers that the operation of the facility involves a serious risk to health and safety.

Application of the 1974 Act

5. Any function of the Executive under any provision of the 1974 Act in respect of health and safety regulations is exercisable as if Articles 13 and 14 of the EU Ship Recycling Regulation were health and safety regulations for the purposes of that Act.

(a) OJ No L 330, 10.12.2013, p 1.

(b) S.I. 2010/675, to which there are amendments not relevant to these Regulations.

(c) 1990 c. 43.

(d) S.S.I. 2012/360, to which there are amendments not relevant to these Regulations.

Health and safety fees

6.—(1) A fee is payable by the applicant to the Executive on each application for a permit or for a variation of a permit to enable a facility to be included on the European List under these Regulations.

(2) The fee payable on application for a permit or for a variation of a permit to enable a facility to be included in the European List is described in column 1 of the table in the Schedule and is specified in column 2 of that table.

(3) Where a permit of a facility included on the European List under these Regulations is varied and the variation relates to the duration of the permit, a fee is payable to the Executive by the operator of the facility.

(4) The fee payable under paragraph (3) is specified in column 2 of the table in the Schedule.

European List of facilities at which ships flying the flag of a member State may be recycled

7.—(1) The competent authority must inform the Secretary of State without delay of—

- (a) the permitting of a ship recycling facility for inclusion on the European List;
- (b) the suspension or withdrawal of a permit of a ship recycling facility that is included on the European List.

(2) The Secretary of State must carry out the functions of the member State referred to in Article 14(2) of the EU Ship Recycling Regulation and must inform the European Commission in accordance with Article 14(3) and 14(4) of that Regulation.

(3) After the date of application of Article 6(2) of the EU Ship Recycling Regulation, existing facilities must not accept any ship flying the flag of a member State within the scope of the EU Ship Recycling Regulation for ship recycling unless the facility is included on the European List.

(4) Failure to comply with regulation 7(3) will have effect as failure to comply with a condition of a permit.

Review

8.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the provisions of the EU Ship Recycling Regulation implemented by these Regulations are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the coming into force of these Regulations.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

23rd February 2015

Dan Rogerson
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULE

Regulation 6(2) and (4)

Health and Safety Executive fees for applications under these Regulations

Table

<i>1</i>	<i>2</i>
<i>Subject matter</i>	<i>Fee</i>
Application for a permit for a ship recycling facility that will enable the facility to be added to the European List	£4,168
Variation of a permit for a ship recycling facility that will enable the facility to be added to the European List	£4,168
Variation of a permit for a ship recycling facility on the European List that relates to the duration of the permit	£2,034

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement certain aspects of Regulation (EU) No 1257/2013 of the European Parliament and of the Council on ship recycling (OJ No L 330, 10.12.2013, p 1) (“the EU Regulation”) relating to ship recycling facilities located in England, Scotland and Wales. The EU Regulation implements the Hong Kong International Convention for the safe and environmentally sound recycling of ships (“the Convention”). The Convention, once it is in force, will set global standards for ship recycling.

Articles 13 and 14 of the EU Regulation establish requirements for ship recycling facilities that recycle ships within its scope. Once the EU Regulation applies, ships sailing under the flag of a member State that exceed 500 gross tonnes (excluding warships and naval auxiliary or other ships owned or operated by the member State and used on government non-commercial service) will only be able to be recycled at a facility if it is included on the European List of facilities established under the EU Regulation. These Regulations provide for facilities located in England, Scotland or Wales to be authorised in accordance with the EU Regulation so that they may be added to the European List.

Regulation 3 designates the Health and Safety Executive and the relevant environmental regulator as joint competent authorities for the purposes of the EU Regulation.

Regulation 4 provides for authorisation of facilities. Ship recycling facilities already require authorisation as they are regulated as waste operations under Directive 2008/98/EC of the European Parliament and of the Council on waste (OJ No L 312, 22.11.2009, p 3). Permits for ship recycling facilities that wish to accept ships within the scope of the EU Regulation will need to contain conditions that ensure compliance with the EU Regulation. This means that the permit will also relate to health and safety matters. Any decision by the relevant environmental regulator to exercise a function in relation to health and safety matters will be taken jointly with the Health and Safety Executive. It will also be possible to suspend these permits where there is serious risk to health and safety.

Regulation 5 makes provision for the application of the Health and Safety at Work etc. Act 1974 to apply in respect of Articles 13 and 14 of the EU Regulation as if they were health and safety regulations for the purposes of that Act.

Regulation 6 provides for fees payable to the Health and Safety Executive. Fees payable to the relevant environmental regulator will be recovered under existing charging schemes.

Regulation 7 provides for the notification of facilities to be included on the European List. It also ensures that facilities that are currently authorised to recycle ships will only be authorised to accept ships within the scope of the EU Regulation if their existing permit has been brought into line with its requirements.

Regulation 8 provides for the Secretary of State to review the operation and effect of these Regulations and publish a report within five years of their coming into force.

An impact assessment has not been produced for these Regulations as no significant impact on the costs of business or the voluntary sector is foreseen. The Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

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