
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations govern transfers consisting wholly or mainly of oil between ships, known as ship-to-ship transfers. The two types of ship-to-ship transfer which are governed within the Regulations are cargo transfers and bunkering operations.

The Regulations prohibit cargo transfers unless they are carried out within harbour authority waters or within the permit area (regulation 4). They also provide that cargo transfers must not be carried out within harbour authority waters unless they are authorised by the harbour authority or the cargo transfer is a lightening operation (to lighten the ship to enable it to move to shallower waters) or a consolidation operation (to consolidate cargo for bunkering operations) (regulation 5).

The relevant harbour authority may provide authorisation under an oil transfer licence granted by the Secretary of State, having considered the programme's likely impact on the environment by the procedure set out in Schedules 1 and 2. Where cargo transfers are likely to have a significant effect on a European site, the procedure implements Article 6 of Council [Directive 92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206, 22.07.1992, p. 7), which will continue to apply to the United Kingdom during the implementation period.

A harbour authority may only authorise a cargo transfer which is within the scope permitted by the harbour authority's oil transfer licence (regulation 7). If a harbour authority becomes aware of a material change in circumstances following the grant of their oil transfer licence, they are required to apply for an amendment to the existing licence within three months (regulation 8).

There are transitional provisions in the Regulations (regulation 9) which provide that oil transfer licences granted under the Merchant Shipping (Ship-to-Ship Transfers) Regulations 2010 ([S.I. 2010/1228](#)) are to be treated as though they have been granted under these Regulations. A harbour authority must apply for an amended oil transfer licence within three months, if they are aware of a change of circumstances when the Regulations come into force. Any authorisation that a harbour authority provided prior to the Regulations coming into force for a cargo transfer to be carried out after the Regulations come into force, will be treated as valid for the purposes of these Regulations provided that certain criteria are met. The purpose of these provisions is to ensure a smooth transition to the new regime.

The Regulations prohibit ship-to-ship cargo transfers of oil to or from a ship of 150GT or more in controlled waters, unless prior notice has been given to the Secretary of State (regulation 4). A ship involved in a transfer to or from a ship of 150GT or more is also required to carry and comply with a ship-to-ship transfer operations plan approved by its flag State, if the transfer is carried out within United Kingdom waters or controlled waters (regulation 4). These provisions implement Chapter 8 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 ("MARPOL").

Bunkering operations in United Kingdom waters are prohibited, unless the ships carrying out the operation are within harbour authority waters (regulation 10).

The Secretary of State can grant exemptions in relation to prohibited cargo transfers and bunkering operations (regulation 11).

The Regulations provide that carrying out a cargo transfer or bunkering operation in contravention of the Regulations is an offence by the owner, manager and master of each ship involved in the transfer or operation and the Regulations also set out the offences which apply to harbour authorities (regulation 12).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

A consequential amendment is made to the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) (regulation 13). The amendment simply substitutes a reference to the Merchant Shipping (Ship-to-Ship Transfers) Regulations 2010 (S.I. 2010/1228) with a reference to these Regulations.

The Secretary of State must review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years thereafter (regulation 14). Following such a review, it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke the Regulations or to amend them.

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MARPOL (including its Protocols, Annexes and amendments) and the International Convention on Tonnage Measurement of Ships, 1969, can be obtained from the International Maritime Organization (“the IMO”) at IMO Publishing, 4 Albert Embankment, London SE1 7SR, www.imo.org/publications; email: sales@imo.org; telephone: 0207 735 7611. The text of IMO Resolutions may be obtained in hard copy from the IMO Library, at the same address as IMO Publishing. Unless otherwise specified, copies of the Command Papers referred to in this instrument are not available electronically but are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW; email archives@parliament.uk; telephone 0207 219 3074.

A hard copy of the United Nations Convention on the Law of the Sea for the protection and preservation of the marine environment is available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW (catalogue number: HL/PO/JO/10/11/3186/287). An electronic copy of Cm. 4524 can be found at <https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=69421>.

A full Impact Assessment has not been produced for this instrument as it is not expected to have a significant impact on the public or voluntary sectors and only minimal impact on the private sector is foreseen. A Regulatory Triage Assessment of the effect that this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside these Regulations at www.legislation.gov.uk.