
STATUTORY INSTRUMENTS

2020 No. 94

The Merchant Shipping (Ship-to-Ship Transfers) Regulations 2020

Interpretation

3. In these Regulations—

“appropriate authority” means the European Commission before IP completion day and the Secretary of State after IP completion day;

“bunkering operation” means the transfer between ships of a substance consisting wholly or mainly of oil for consumption by the engines of the ship receiving the substance;

“cargo transfer” means the transfer between two ships of a substance consisting wholly or mainly of oil which is transported by either or both of the ships for reward, but does not include—

- (a) a bunkering operation, or
- (b) a transfer of—
 - (i) the remnants of any cargo material on board in cargo holds or tanks which remain after unloading procedures and cleaning operations are completed;
 - (ii) excesses or spillages from loading or unloading, or
 - (iii) ship-generated waste; and for this purpose, “ship generated waste” has the meaning given to it in regulation 2 (interpretation, etc.) of the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003⁽¹⁾.

“the consultation bodies” means—

- (a) such of—
 - (i) Natural England,
 - (ii) the Natural Resources Body for Wales,
 - (iii) Scottish Natural Heritage, and
 - (iv) the Council for Nature Conservation and the Countryside,as the Secretary of State considers likely to have an interest in an OTL application by reason of their responsibilities, and
- (b) any authority or other body the Secretary of State considers likely to have an interest in an OTL application, whether by virtue of having specific environmental responsibilities under any enactment or otherwise;

“European site” has the meaning given in regulation 8(1) (European sites and European marine sites) of the Conservation of Habitats and Species Regulations 2017⁽²⁾, with the omission of the words “Subject to paragraph (2),”;

⁽¹⁾ S.I. 2003/1809, amended by S.I. 2009/1176; there are other amending instruments but none is relevant.

⁽²⁾ S.I. 2017/1012, amended by S.I. 2019/579.

“European offshore marine site” has the meaning given in regulation 18 (meaning of “European offshore marine site”) of the Conservation of Offshore Marine Habitats and Species Regulations 2017(3);

“environmental statement” means the environmental statement provided in accordance with paragraph 1(1)(c) of Schedule 2 (procedure for grant of an oil transfer licence);

“flag State”, in relation to a ship, means the State whose flag the ship is entitled to fly;

“general lighthouse authority” has the meaning given in section 193 (general and local lighthouse authorities) of the Merchant Shipping Act 1995(4);

“the Habitats Directive” has the meaning given in regulation 2 (interpretation) of the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“harbour authority” has the meaning given in section 57(1) (interpretation) of the Harbours Act 1964(5);

“harbour authority waters” means waters regulated or managed by a harbour authority, excluding any areas outside a harbour over which a harbour authority exercises control in accordance with the Pilotage Act 1987(6) by virtue of an order of the Secretary of State made under section 1(3)(a) (pilotage function orders for areas outside harbour authority waters) of that Act;

“IP completion day” has the meaning given in section 39(1) of the European Union (Withdrawal Agreement) Act 2020(7);

“licence decision” means the decision of the Secretary of State whether to grant an oil transfer licence or an amended oil transfer licence and, if so, as to the terms on which to do so;

“Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport), and includes a reference to that Merchant Shipping Notice as revised or re-issued from time to time;

“Natura 2000” has the meaning given by regulation 3(1) (interpretation) of the Conservation of Habitats and Species Regulations 2017;

“offshore installation” means—

- (a) an offshore installation within the meaning of section 44 (meaning of “offshore installation”) of the Petroleum Act 1998(8), which is not a ship, or
- (b) a renewable energy installation within the meaning of section 104 (interpretation of Chapter 2 of Part 2) of the Energy Act 2004(9);

“oil” means oil of any description and includes spirit produced from oil of any description, and also includes coal tar;

“oil transfer licence” means a licence granted to a harbour authority by the Secretary of State, enabling the harbour authority to authorise cargo transfers—

- (a) of a substance or substances specified in the licence,
- (b) in a specified location or locations, and
- (c) subject to any conditions specified in the licence;

(3) S.I. 2017/1013, amended by S.I. 2019/579.

(4) Section 193 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 6, paragraph 6 and by the Marine Navigation Act 2013 (c. 23), section 8(1).

(5) 1964 c. 40.

(6) 1987 c. 21.

(7) 2020 c. 1.

(8) 1998 c. 17; section 44 was amended by the Energy Act 2008 (c. 32), Schedule 1, paragraph 11.

(9) 1994 c. 20; section 104 was amended by the Wales Act 2017 (c. 4), section 41(6).

“OTL application” means, except as provided otherwise in regulation 8(4) (oil transfer licences), an application for an oil transfer licence submitted by a harbour authority to the Secretary of State under regulation 8(1).