

SCHEDULE 1

Regulation 8(1)(a) and (4) and 11(4)

Initial Determination of Likely Effects on European Sites

1. The harbour authority must—

- (a) determine, and
- (b) provide to the Secretary of State a written statement with reasons specifying,

whether the cargo transfers to be carried out under the requested oil transfer licence are likely to have a significant effect on any European site, either individually or in combination with other plans or projects.

2.—(1) If the harbour authority determines that the cargo transfers are not likely to have a significant effect on any European site, the Secretary of State must, on receipt of the OTL application, review that determination in the light of the environmental statement and any further information provided.

(2) If, following such review, the Secretary of State determines that the cargo transfers are likely to have a significant effect on any European site, the Secretary of State must give notice to the harbour authority to that effect.

3.—(1) If the harbour authority or the Secretary of State has determined that the cargo transfers are likely to have a significant effect on any European site, the procedure set out in Schedule 2 (procedure for grant of an oil transfer licence) shall be modified as follows.

(2) Having considered the environmental statement, the Secretary of State must make an appropriate assessment of the implications of the proposed cargo transfers for the European site, in view of the conservation objectives of the site, for the purposes of Article 5 of the Habitats Directive.

(3) Before the Secretary of State may grant an oil transfer licence without having concluded that the proposed cargo transfers will not adversely affect a European site, the Secretary of State must be satisfied that—

- (a) there is no appropriate alternative to granting the oil transfer licence in the proposed terms, and
- (b) the oil transfer licence must be granted in view of imperative reasons of overriding public interest which, subject to sub-paragraph (4), may be of a social or economic nature.

(4) Where the European site referred to in sub-paragraph (3) hosts a priority natural habitat type or a priority species as defined in Article 1 of the Habitats Directive, the reasons referred to in that sub-paragraph must be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment; or
- (b) reasons which are, in the opinion of the appropriate authority, imperative reasons of overriding public interest.

(5) Before IP completion day, when considering an OTL application the Secretary of State may seek the opinion of the European Commission in connection with sub-paragraph (4)(b).

(6) Where the Secretary of State considers that any adverse effects of the proposed cargo transfers on the integrity of a European site would be avoided by granting an oil transfer licence subject to conditions, the Secretary of State must not grant the licence except subject to those conditions.

(7) If, in spite of a negative assessment of the environmental implications for the European site and in the absence of alternative solutions, the Secretary of State decides to grant the oil transfer licence for imperative reasons of overriding public interest, the Secretary of State must—

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- (a) ensure that all compensatory measures necessary to ensure the overall coherence of Natura 2000 are taken; and
- (b) if the decision is made before IP completion day, inform the European Commission of the compensatory measures adopted.

SCHEDULE 2

Regulation 8(1)(b) and (4) and 11(4)

Procedure for Grant of an Oil Transfer Licence

OTL application

- 1.—(1) The OTL application must contain—
- (a) a chart or map, or both, sufficient to identify the locations of the proposed cargo transfers to be carried out under the oil transfer licence and the extent of any onshore infrastructure alterations which the cargo transfers would involve;
 - (b) a description of the proposed cargo transfers, including—
 - (i) the types of substances to be transferred;
 - (ii) the maximum quantities of each substance to be transferred in any single operation and/or within any specified time period;
 - (iii) the frequency of transfers; and
 - (iv) the types of ship to be used to carry out the transfers; and
 - (c) an environmental statement in respect of the cargo transfers which—
 - (i) is in writing; and
 - (ii) contains the information specified in paragraph 2 (environmental statement).
- (2) The harbour authority must comply with any reasonable request made by the Secretary of State as to—
- (a) the format in which the harbour authority must provide the material referred to in sub-paragraph (1); and
 - (b) the number of copies of the material in that format that the harbour authority must provide to the Secretary of State.
- (3) If the Secretary of State has made a request under sub-paragraph (2), the Secretary of State need not—
- (a) deal further with the OTL application; or
 - (b) exercise any functions under these Regulations in relation to the OTL application,
- until the harbour authority has complied with that request.

Environmental statement

- 2.—(1) The environmental statement must contain—
- (a) a description of any aspects of the environment likely to be significantly affected by the proposed cargo transfers, including—
 - (i) human beings, fauna and flora;
 - (ii) soil, water, air, climate and the landscape;
 - (iii) material assets and cultural heritage; and

- (iv) the interaction between any two or more of the things mentioned in sub-paragraphs (i) to (iii);
 - (b) a description complying with sub-paragraph (2), of any significant effects the proposed cargo transfers are likely to have on the environment resulting from—
 - (i) the nature of the activities to be carried out and the manner in which they are to be carried out;
 - (ii) the use of natural resources;
 - (iii) the emission of pollutants;
 - (iv) the creation of nuisances; or
 - (v) the elimination of waste;
 - (c) a description of the forecasting methods used by the harbour authority to assess any effects that the proposed cargo transfers are likely to have on the environment;
 - (d) a description of the measures envisaged to prevent or reduce, and where possible offset, any significant effects of the proposed cargo transfers on the environment, including, if appropriate, any changes proposed to the harbour authority's oil pollution emergency plan maintained in accordance with regulation 4 (oil pollution emergency plans) of the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998⁽¹⁾;
 - (e) if applicable, an outline of the main alternatives to the proposed cargo transfers studied by the harbour authority and an indication of the main reasons for its choice, taking into account the environmental effects of those alternatives and the proposed cargo transfers;
 - (f) a non-technical summary of the information provided under paragraphs (a) to (e); and
 - (g) a description of any difficulties, such as technical deficiencies or lack of knowledge, encountered in compiling any information specified in paragraphs (a) to (e).
- (2) The description referred to in sub-paragraph (1)(b) must cover—
- (a) direct and indirect effects;
 - (b) secondary effects;
 - (c) cumulative effects;
 - (d) short-term, medium-term and long-term effects;
 - (e) permanent and temporary effects; and
 - (f) positive and negative effects.

Provision of further information

- 3.—(1) Where the Secretary of State reasonably considers that—
- (a) further information is required for the proper consideration of the likely environmental effects of the proposed cargo transfers, and
 - (b) the harbour authority is or should be able to provide such information,

the Secretary of State must notify the harbour authority in writing of the matters on which further information is required.

(2) If the Secretary of State has provided the notification mentioned in sub-paragraph (1), the Secretary of State need not—

- (a) deal further with the OTL application; or

(1) [S.I. 1998/1056](#); relevant amending instruments are [S.I. 2015/386](#), [2015/398](#), [2016/992](#).

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(b) exercise any functions under these Regulations in relation to the OTL application, until the harbour authority has provided that information.

Consultation and publicity

- 4.—(1) The Secretary of State must either—
- (a) supply the documents set out in sub-paragraph (2) to the consultation bodies, or
 - (b) direct the harbour authority to supply them to the consultation bodies.
- (2) The documents referred to in sub-paragraph (1) are—
- (a) a copy of the OTL application;
 - (b) a copy of any further information supplied by the harbour authority to the Secretary of State under paragraph 3 (provision of further information); and
 - (c) a letter stating that any representation regarding the OTL application should be made in writing to the Secretary of State, at an address specified in the letter, within the period of 42 days beginning with the date of the letter, or such longer period as may be agreed between the consultation bodies and the Secretary of State.
- (3) The Secretary of State must either—
- (a) publicise the OTL application by the method set out in sub-paragraph (4), or
 - (b) direct the harbour authority to publicise the OTL application by the method set out in sub-paragraph (4).
- (4) The method referred to in sub-paragraph (3) is—
- (a) the publication, in two successive weeks, of a notice containing the information set out in sub-paragraph (5) in such newspapers or other publications as the Secretary of State considers appropriate, and
 - (b) such other steps as the Secretary of State considers appropriate.
- (5) The information referred to in sub-paragraph (4) is—
- (a) the harbour authority's name and correspondence address;
 - (b) confirmation that an environmental statement has been submitted in connection with the OTL application and that further information, if any, has been provided to the Secretary of State;
 - (c) a description of the proposed cargo transfers, including—
 - (i) the types of substances to be transferred;
 - (ii) the maximum quantities of each substance to be transferred in any single operation and/or within any specified time period;
 - (iii) the anticipated frequency of transfers; and
 - (iv) the types of ship to be used to carry out the transfers;
 - (d) the address of an office of the Secretary of State, or other place nominated by the Secretary of State, at which copies of the OTL application and the further information, if any, may be inspected free of charge at all reasonable hours, within the period of 42 days beginning with the date of publication of the notice;
 - (e) the address from which copies of the OTL application and the further information, if any, may be obtained from the Secretary of State and, if a charge is to be made for a copy, the amount, not exceeding a reasonable charge for copying, of the charge; and
 - (f) a statement that any person wishing to make representations regarding the OTL application and the further information, if any, should make them in writing to the Secretary of State

at an address specified in the notice, within the period of 42 days beginning with the date of publication of the notice.

(6) The Secretary of State need not deal further with, or exercise any functions under these Regulations in relation to, the OTL application until—

- (a) the harbour authority has complied with any directions given in accordance with sub-paragraph (1)(b) or (3)(b); and
- (b) the expiry of—
 - (i) the consultation period, including any extension agreed in accordance with sub-paragraph (2)(c); and
 - (ii) the period for the making of representations in accordance with sub-paragraph (5)(f).

Licence decision, notification and publication

5.—(1) In reaching a licence decision, the Secretary of State must—

- (a) have regard to—
 - (i) the OTL application;
 - (ii) any further information provided by the harbour authority pursuant to a notification under paragraph 3;
 - (iii) any representations received in accordance with the letter referred to in paragraph 4(2)(c); and
 - (iv) any representations received in accordance with the statement referred to in paragraph 4(5)(f); and
 - (b) take into account the direct and indirect effects of the proposed cargo transfers on—
 - (i) human beings, fauna and flora;
 - (ii) soil, water, air, climate and the landscape;
 - (iii) material assets and the cultural heritage; and
 - (iv) the interaction between any two or more of the things mentioned in sub-paragraphs (i) to (iii).
- (2) The Secretary of State must send written confirmation of the licence decision to—
- (a) the harbour authority;
 - (b) any consultation body which responded to the consultation in accordance with the letter referred to in paragraph 4(2)(c); and
 - (c) any person from whom the Secretary of State received representations in accordance with the statement referred to in paragraph 4(5)(f).
- (3) The written confirmation must include—
- (a) the main reasons and considerations on which the licence decision was based, including any opinion of the European Commission on matters of overriding public interest obtained under paragraph 3(5) of Schedule 1;
 - (b) if the licence decision involves granting the oil transfer licence, a description of any measures that must be taken in consequence of the grant to avoid or reduce, and where possible offset, any environmental effects of the cargo transfers; and
 - (c) such maximum duration of the oil transfer licence, if any, as the Secretary of State considers appropriate.

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(4) The Secretary of State must ensure, as soon as possible after written confirmation is sent to the harbour authority pursuant to sub-paragraph (2)(a), that the licence decision is publicised in such manner as the Secretary of State considers appropriate.

SCHEDULE 3

Regulation 4

Gross Tonnage

1. The “gross tonnage” of a United Kingdom ship is to be determined in accordance with paragraphs 3 to 5, and the “gross tonnage” of a ship other than a United Kingdom ship is to be determined in accordance with paragraphs 6 to 8.

2. In this Schedule—

“the 1997 Regulations” means the Merchant Shipping (Tonnage) Regulations 1997(2);

“length” has the same meaning as in the 1997 Regulations; and

“the Tonnage Convention” means the International Convention on Tonnage Measurement of Ships, 1969(3).

United Kingdom ships

3. In the case of a ship of 24 metres in length or over for which the Secretary of State permits the continuing use of a gross tonnage pursuant to regulation 12(1) (use of gross tonnage ascertained under previous Regulations) of the 1997 Regulations, the “gross tonnage” is the smaller of—

(a) the largest gross tonnage permitted for that ship pursuant to regulation 12(1) of the 1997 Regulations; and

(b) the gross tonnage of the ship determined in accordance with regulation 6 (gross tonnage) of the 1997 Regulations.

4. In the case of any other ship of 24 metres in length or over, the “gross tonnage” is the gross tonnage of the ship determined in accordance with regulation 6 (gross tonnage) of the 1997 Regulations.

5. In the case of a ship of less than 24 metres in length, the “gross tonnage” is the tonnage of the ship determined in accordance with regulation 14(2) (measurement and certification) of the 1997 Regulations.

Ships other than United Kingdom ships

6. Subject to paragraph 7, in the case of a ship which has a gross tonnage determined in accordance with the Tonnage Convention, the “gross tonnage” is that gross tonnage.

7. Where a ship has a gross tonnage determined in accordance with the Tonnage Convention but the ship’s flag State permits the use of some other gross tonnage, the “gross tonnage” of the ship is the smaller of—

(a) the largest gross tonnage permitted by the flag State to be used for that ship; and

(b) the gross tonnage determined in accordance with the Tonnage Convention.

(2) [S.I. 1997/1510](#), amended by [S.I. 1998/1916](#), [1999/3206](#) and [2005/2114](#).

(3) The Tonnage Convention was published in Cmnd. 4332 and subsequently in Cmnd. 8716. An electronic copy of the Tonnage Convention is available via the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=68110>). A hard copy of Cmnd. 8716 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/10/11/2156/147).

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8. In the case of a ship which does not have a gross tonnage determined in accordance with the Tonnage Convention, the “gross tonnage” is the gross tonnage or equivalent measure determined in accordance with the law of the ship’s flag State, and where the ship has more than one such gross tonnage or equivalent measure, the “gross tonnage” is to be taken to be the largest of them.

SCHEDULE 4

Regulation 2

Revocations

Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Regulations revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Merchant Shipping (Ship-to-Ship Transfers) Regulations 2010	2010/1228	The whole instrument
The Merchant Shipping (Ship-to-Ship Transfers) (Amendment) Regulations 2010	2010/1769	The whole instrument
The Merchant Shipping (Ship-to-Ship Transfers) (Amendment) Regulations 2011	2011/974	The whole instrument
The Merchant Shipping (Ship-to-Ship Transfers) (Amendment) (No. 2) Regulations 2011	2011/2183	The whole instrument
The Merchant Shipping (Ship-to-Ship Transfers) (Amendment) Regulations 2012	2012/742	The whole instrument
The Merchant Shipping (Ship-to-Ship Transfers) (Amendment) Regulations 2017	2017/837	The whole instrument
The Merchant Shipping (Prevention of Pollution) (Limits) Regulations 2014	2014/3306	Schedule 2, paragraph 9
The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015	2015/664	Schedule 4, paragraph 82
The Conservation of Habitats and Species Regulations 2017	2017/1012	Schedule 6, paragraph 18
The Conservation of Offshore Marine Habitats and Species Regulations 2017	2017/1013	Schedule 4, paragraph 6