

2022 No. 1234

MERCHANT SHIPPING

MARINE POLLUTION

**The Merchant Shipping (Prevention of Oil Pollution and
Prevention of Pollution by Sewage from Ships) (Amendment)
Regulations 2022**

<i>Made</i>	- - - -	<i>1st December 2022</i>
<i>Laid before Parliament</i>		<i>5th December 2022</i>
<i>Coming into force</i>		<i>27th December 2022</i>

The Secretary of State, in exercise of the powers conferred by article 3 of the Merchant Shipping (Prevention of Oil Pollution) Order 1983(a), article 2 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996(b), articles 3 and 5 of the Merchant Shipping (Prevention of Pollution by Sewage and Garbage) Order 2006(c) and sections 85(1), (3), (5) to (7), 86(1)(a), (b), (c) and (d), 128(5) and (6), 302(1) and 306A of the Merchant Shipping Act 1995(d), and with the consent of the Treasury, makes the following Regulations.

The Secretary of State has consulted such persons in the United Kingdom as the Secretary of State considers will be affected by the exercise of powers in this instrument in accordance with section 86(4) of the Merchant Shipping Act 1995.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Merchant Shipping (Prevention of Oil Pollution and Prevention of Pollution by Sewage from Ships) (Amendment) Regulations 2022 and come into force on 27th December 2022.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

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- (a) S.I. 1983/1106, amended by S.I. 1985/2002 and 1993/1580. There are other amendments but none is relevant. Following the consolidation of section 20 of the Merchant Shipping Act 1979 (c. 39), the Order has effect as if made under section 128 of the Merchant Shipping Act 1995 (c. 21).
- (b) S.I. 1996/282, amended by the Marine and Coastal Access Act 2009 (c. 23), Schedule 4, Part 1, paragraph 3 and S.I. 2022/844. There is another amendment which is not relevant.
- (c) S.I. 2006/2950.
- (d) 1995 c. 21. Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7. Section 85 was amended by the British Overseas Territories Act 2002 (c. 8), section 2(3). Section 128 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 29, Schedule 6, paragraph 3(3) and Schedule 7, Part I, and the Merchant Shipping (Pollution) Act 2006 (c. 8), section 2. Section 306A was inserted by the Deregulation Act 2015 (c. 20), section 106. There are other amendments to the Act but none is relevant.

Amendment of the Merchant Shipping (Prevention of Oil Pollution) Regulations 2019

2.—(1) The Merchant Shipping (Prevention of Oil Pollution) Regulations 2019(a) are amended as follows.

(2) In regulation 7 (exemptions)—

- (a) in paragraph (4)(b), at the beginning, insert “on the giving of reasonable notice,”;
- (b) after paragraph (5), insert—

“(5A) Where an exemption is granted under paragraph (3) in respect of a UNSP barge which is a United Kingdom ship, in relation to regulation 10 (surveys), 12 (issue and endorsement of IOPP Certificates) or 13 (issue of UKOPP Certificates), the Secretary of State must issue a UNSP Exemption Certificate.

(5B) Where an exemption is altered or cancelled under paragraph (4)(b), the Secretary of State must indicate this on the UNSP Exemption Certificate.

(5C) The Secretary of State may, at the request of the Administration of another Convention Country, survey a UNSP barge entitled to fly the flag of that Convention Country for the purpose of issuing an exemption under paragraph (3) in relation to regulation 12 or 13 in respect of that ship and, if satisfied that the ship meets the requirements for that exemption, issue a UNSP Exemption Certificate in respect of that ship.

(5D) A UNSP Exemption Certificate issued under paragraph (5C) must include a statement to the effect that it has been issued at the request of the Administration of a Convention Country.

(5E) The Secretary of State must, as soon as possible after issuing a UNSP Exemption Certificate under paragraph (5C), send to the requesting Administration—

- (a) a copy of the UNSP Exemption Certificate so issued; and
- (b) a copy of the corresponding survey report.

(5F) A UNSP Exemption Certificate must not be issued in respect of a ship entitled to fly the flag of a State which is not a Convention Country.”;

(c) for paragraph (6), substitute—

“(6) In this regulation—

“UNSP” barge means an unmanned non-self-propelled barge that—

- (a) is not propelled by mechanical means;
- (b) carries no oil;
- (c) has no machinery fitted that may use oil or generate oil residue;
- (d) has no fuel tank, lubricating oil tank, oily bilge water holding tank and oil residue tank; and
- (e) has neither persons nor living animals on board; and

“UNSP Exemption Certificate” means the certificate described as “International Oil Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges” in appendix IV to Annex I.”.

Amendment of the Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020

3.—(1) The Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020(b) are amended as follows.

(2) In regulation 3(1) (interpretation)—

(a) S.I. 2019/42, amended by S.I. 2021/818.

(b) S.I. 2020/620.

- (a) omit the definition of “the Appendix”; and
 - (b) in the definition of “Sewage Certificate”, for “the Appendix” substitute “appendix I to Annex IV”.
- (3) After regulation 6 (application), insert—

“Exemption for UNSP barges

6A.—(1) The Secretary of State may exempt a UNSP barge from the requirements of regulation 11 (prohibition on United Kingdom ships proceeding to sea without a Sewage Certificate), regulation 13 (surveys of United Kingdom ships) or regulation 14 (issue of Sewage Certificates by a Certifying Authority in respect of United Kingdom ships) for a period not exceeding five years provided that the barge has undergone a survey to confirm that—

- (a) it is not propelled by mechanical means;
- (b) has neither persons nor living animals on board;
- (c) is not used for holding sewage during transport; and
- (d) has no arrangements that could produce sewage.

(2) An exemption granted under paragraph (1) may, on the giving of reasonable notice, be altered or cancelled.

(3) An exemption granted under paragraph (1), or an alteration or cancellation under paragraph (2), must be in writing.

(4) Where an exemption is granted under paragraph (1), the Secretary of State must issue a UNSP Exemption Certificate.

(5) Where an exemption is altered or cancelled under paragraph (2), the Secretary of State must indicate this on the UNSP Exemption Certificate.

(6) The Secretary of State may, at the request of another Contracting State—

- (a) survey a UNSP barge entitled to fly the flag of that State for the purpose of issuing an exemption from the requirements of regulation 12 (prohibition on non-United Kingdom ships proceeding to sea without a Sewage Certificate or appropriate documentation) in respect of that ship; and
- (b) if satisfied that the ship meets the requirements for that exemption, grant the exemption and issue a UNSP Exemption Certificate in respect of that ship.

(7) A UNSP Exemption Certificate issued under paragraph (6) must include a statement to the effect that it has been issued at the request of the relevant Contracting State.

(8) The Secretary of State must, as soon as possible after issuing a UNSP Exemption Certificate under paragraph (6), send to the Contracting State who made the request, a copy of—

- (a) the exemption granted under paragraph (6);
- (b) the UNSP Exemption Certificate so issued; and
- (c) the corresponding survey report.

(9) In this regulation—

“UNSP barge” means an unmanned non-self-propelled barge that—

- (a) is not propelled by mechanical means;
- (b) has neither persons nor living animals on board;
- (c) is not used for holding sewage during transport; and
- (d) has no arrangements that could produce sewage; and

“UNSP Exemption Certificate” means the certificate described as “International Sewage Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges” in appendix II to Annex IV. ”.

(4) In regulation 18(5) (extension of periods of validity of Sewage Certificates by a Certifying Authority), for “the Appendix” substitute “appendix I to Annex IV”.

(5) In regulation 19(2) (extension of periods of validity of Sewage Certificates by a surveyor), for “the Appendix” substitute “appendix I to Annex IV”.

Amendment of the Merchant Shipping (Fees) Regulations 2018

4.—(1) The Merchant Shipping (Fees) Regulations 2018^(a) are amended as follows.

(2) In Schedule 1 (fees under the Merchant Shipping Act 1995), in the table in paragraph 5 (fees for inspections etc.) of Part 1 (surveys, inspections and applications for exemption), in Section J (prevention and control of pollution)—

- (a) for the entry for “the Merchant Shipping (Prevention of Oil Pollution) Regulations 2019”, in the third column, for “None” substitute “2022/1234”;
- (b) for the entry for “the Merchant Shipping (Prevention of Pollution by Sewage by Ships) Regulations 2020”, in the third column, for “None” substitute “2022/1234”.

Signed by authority of the Secretary of State for Transport

1st December 2022

Vere
Parliamentary Under Secretary of State
Department for Transport

We consent to the making of these Regulations

1st December 2022

Andrew Stephenson
Steve Double
Two of the Lords Commissioners of His Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Merchant Shipping (Prevention of Oil Pollution) Regulations 2019 (S.I. 2019/42) (“the 2019 Regulations”) and the Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020 (S.I. 2020/620) (“the 2020 Regulations”).

These Regulations implement amendments to Annex I (prevention of pollution by oil) and Annex IV (prevention of pollution by sewage from ships) to the International Convention for the Prevention of Pollution from Ships 1973 (MARPOL). The amendments were adopted by International Maritime Organization (IMO) Resolution MEPC.330(76) on 17th June 2021 and came into force on 1st November 2022.

The amendments comprise an exemption for unmanned non-self-propelled barges (“UNSP barges”) from the survey and certification requirements in Annexes I and IV and require a specified exemption certificate to be issued in each case. The amendments to Annex I are given effect by regulation 2(2), which amends regulation 7 of the 2019 Regulations (exemptions). The amendments to Annex IV are given effect by regulation 3(3), which inserts new regulation 6A (exemption for UNSP barges) into the 2020 Regulations.

The Regulations also make a number of consequential amendments to the 2020 Regulations (regulation 3(2), (4) and (5)) and to the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104) (regulation 4).

(a) S.I. 2018/1104. There are amending instruments but none is relevant.

The Convention, and the Protocol of 1978 that modifies the Convention, and the amendments to it, may be obtained in copy from the IMO, 4 Albert Embankment, London SE1 7SR and is available on the Foreign, Commonwealth and Development Office (FCDO) treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch>). The text of the IMO Resolutions amending the Convention may be obtained from the IMO or can be found on the FCDO treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch>).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk.

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