
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (“the Convention”), including amendments to the Convention made by International Maritime Organization (IMO) Resolution MEPC.331(76).

These Regulations revoke and replace Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14th April 2003 on the prohibition of organotin compounds on ships (formerly part of Retained EU Law) and the Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796). These instruments implemented the previous version of the Convention.

Anti-fouling systems comprise the coating put on the outside of hulls of ships to prevent the attachment of unwanted organisms. The Convention, adopted on 18th October 2001, came into force on 17th September 2008 and contains provision to ensure that anti-fouling systems do not contain substances which are harmful to marine life and the marine environment.

MEPC.331(76), adopted on 17th June 2021, came into force on 1st January 2023. It amends the Convention to introduce a new prohibition on the use of anti-fouling systems containing cybutryne on ships.

All future amendments to the provisions of the Convention will be automatically given effect in United Kingdom law by way of the ambulatory reference provision (regulation 5) made under the power in section 306A of the Merchant Shipping Act 1995.

Part 2 (regulation 6) implements the prohibitions and requirements in relation to the use of organotin compounds acting as biocides, and cybutryne, in anti-fouling systems. These provisions prohibit the application of these substances or, in cases where they have already been applied, require their removal or overlay by a non-prohibited substance by not later than 31st December 2027.

Part 3 (regulations 7 to 11) provides for the survey and certification of ships in relation to compliance with the requirements of Part 2. These provisions apply only to ships engaged on international voyages.

Part 4 (regulations 12 and 13) contains provision for the control and enforcement of the prohibitions and requirements in these Regulations. Regulation 12 makes provision for a number of offences, specifically making it an offence by the owner and master for a ship to be used in contravention of any of certain requirements in regulations 6 (prohibitions etc.), 7 (AFS-Certificates etc.), 8 (AFS-Declarations etc.) and 10 (availability of certificates etc.). This regulation also makes it an offence by a person to breach the requirements in regulation 9(3) (false certification etc.). Regulation 13 contains power to detain a ship in cases of non-compliance with these Regulations.

Part 5 (regulation 14) requires the Secretary of State to review the operation and effect of these Regulations and publish a report at the end of the period of five years beginning with the date on which these Regulations come into force and at intervals not exceeding five years after that. Following a review, it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be amended or revoked. A further instrument would be needed to amend or revoke the Regulations.

The Schedule to these Regulations makes consequential amendments to the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104) to enable fees to be charged in relation to the carrying out of surveys and certain other steps required under these Regulations. It also revokes (amongst other things) Regulation (EC) 782/2003 of the European Parliament and of the Council of 14th April

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

2003 on the prohibition of organotin compounds on ships and the Merchant Shipping (Anti-Fouling Systems) Regulations 2009, which are superseded by these Regulations.

Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14th April 2003, which is referred to in these Regulations, is the assimilated version of Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships (OJ L 115, 9.5.2003, p. 1–11). This was amended by Commission Regulation (EC) No 536/2008 of 13 June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) No 782/2003 and amending that Regulation (OJ L 156, 14.6.2008, p. 10–11) and Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny (OJ L 87, 31.3.2009, p. 109–154).

Merchant Shipping Notice M. 1613, which is referred to in these Regulations, is available on https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282032/msn1613.pdf, or in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mcga.gov.uk) or on <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency>.

The Convention and IMO Resolution MEPC.331(76) may be obtained in copy from the International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR and the Convention is available on the Foreign, Commonwealth and Development Office (FCDO) treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>).

Future amendments to the Convention may be obtained in copy from the IMO and, after coming into force in the United Kingdom, found on the Foreign, Commonwealth and Development Office (FCDO) treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>). Until such publication is made on the FCDO treaties database, an amendment will be available from the MCA and on <https://www.gov.uk>. An amendment will be publicised in advance of its in-force date by means of a Parliamentary Statement to both Houses of Parliament and by way of a Marine Guidance Note, which will be available in copy from the MCA and on <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency>.

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

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