



## **MERCHANT SHIPPING (PREVENTION OF OIL POLLUTION) ORDER 1986**

### **THE MERCHANT SHIPPING (MARPOL ANNEX I – PREVENTION OF POLLUTION BY OIL) REGULATIONS 2006**

*Approved by Tynwald: 12 December 2006*

*Coming into operation: 1 January 2007*

In exercise of the powers conferred on the Department of Trade and Industry by article 3 of the Merchant Shipping (Prevention of Oil Pollution) Order 1986<sup>1</sup> and of all other powers enabling it in that behalf the following Regulations are hereby made -

#### **Citation and commencement**

1. These Regulations may be cited as the Merchant Shipping (MARPOL Annex I – Prevention of Pollution by Oil) Regulations 2006 and subject to section 17 of the Oil Pollution Act 1986<sup>2</sup> shall come into operation on 1<sup>st</sup> January 2007.

#### **Interpretation**

2. In these Regulations -

“Convention Country” means a Country which is a party to the MARPOL Convention;

“the Department” means the Department of Trade and Industry;

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<sup>1</sup> GC195/86

<sup>2</sup> 1986 c.12

“High-Speed Craft Code” means the International Code of Safety for High-Speed Craft adopted by the Maritime Safety Committee of the IMO by resolution MSC.36(63) and includes any document which subsequently amends it;

“IMO” means the International Maritime Organization;

“International Voyage” means a voyage between:

- (a) a place in the Island and a place outside the Island; or
- (b) a place in a convention country and a place in any other country or territory (whether a convention country or not) which is outside the Island;

“International Oil Pollution Prevention Certificate” means the IOPP Certificate as set out in Appendix II to MARPOL Annex I;

“Manx Ship” has the meaning given by section 1 of the Merchant Shipping Registration Act 1991<sup>3</sup> and includes ships registered under Part IV of that Act (the Demise Charter Register);

“MARPOL Annex I” means the revised Annex I to the MARPOL Convention containing Regulations for the Prevention of Pollution by Oil adopted by Resolution 117 (52) of the Maritime Environment Protection Committee (“MEPC”) of the IMO at its fifty-second session on the 15 October 2004, coming into force 1 January 2007 and includes appendices and unified interpretations to that Annex;

“MARPOL Convention” means the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2<sup>nd</sup> November, 1973;

“operator” in relation to a ship means the owner or any other organisation or person such as the manager or the bareboat charterer who has assumed responsibility for the operation of the ship from the owner;

“recognised organisation” means an organisation authorised to act as a recognised organisation by the Department and specified in Manx Shipping Notice No. 20;

“ship” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms;

“special areas” means those areas which are defined as special areas in MARPOL Annex I, regulation 1.11;

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<sup>3</sup> 1991 c.15

“territorial waters” means:

- (a) the territorial sea adjacent to the Island, and
- (b) any waters within the area which extends landward from the baselines from which the breadth of the territorial sea is measured as far as the mean high water mark of ordinary spring tides.

### **Revocations and amendments**

3. (1) The Revocations set out in Schedule 1 to these Regulations shall have effect.
- (2) The Consequential Amendments set out in Schedule 2 to these Regulations shall have effect.

### **Application**

4. (1) Subject to paragraphs (2) and (3) and to the provisions of individual regulations in MARPOL Annex I, these Regulations apply to:

- (a) all Manx Ships; and
- (b) all other ships whilst they are within the Isle of Man or the territorial waters thereof.

- (2) Regulation 6 of these Regulations does not apply to any ship referred to in paragraph 1(b).

- (3) These Regulations do not apply to any warship, naval auxiliary or other ship owned and operated by a state and for the time being, only on government non-commercial service.

### **Requirement to comply with MARPOL Annex I**

5. (1) Subject to regulations 6 and 7 and to the provisions of individual regulations in MARPOL Annex I, any ship to which these Regulations apply shall be constructed, equipped and operated in accordance with the requirements of MARPOL Annex I as they apply in relation to a ship of its description.

- (2) Where there is a footnote in MARPOL Annex I, and it is clear from the wording and the context that the content of the footnote, or of a document referred to in the footnote is intended to form part of the requirement, then such content shall be treated as part of the requirement.

## **MARPOL Annex I – Isle of Man requirements and interpretation**

6. (1) For the purposes of MARPOL Annex I, regulation 9, an International Oil Pollution Prevention Certificate shall be at least in English.

(2) For the purposes of MARPOL Annex I, regulation 17.4, the written entries in the Oil Record Book Part I shall be at least in English.

(3) For the purposes of MARPOL Annex I, regulation 36.5, the written entries in the Oil Record Book Part II shall be at least in English.

(4) For the purposes of MARPOL Annex I, regulation 14.4 every ship which is less than 400 GT shall, so far as is reasonably practicable (and if the ship is a Manx Ship to the satisfaction of the Department,) be equipped with installations to ensure that oil or oily mixtures are either retained on board and discharged to reception facilities or, if discharged into the sea, are so discharged in accordance with the conditions stated in MARPOL Annex I, regulation 15.6.

(5) For the purposes of MARPOL Annex I, regulation 20.7 the continued operation of a Category 2 or 3 oil tanker (as defined in regulation 20.3 of MARPOL Annex I) beyond the date specified in regulation 20.4 of MARPOL Annex I is not permitted.

(6) For the purposes of MARPOL Annex I, regulation 21.5 the continued operation of an oil tanker of 5,000 tonnes deadweight and above, beyond the date specified in regulation 21.4 of MARPOL Annex I is not permitted.

(7) For the purposes of MARPOL Annex I, regulation 21.6.1 the continued operation of an oil tanker of 5,000 tonnes deadweight and above, carrying crude oil having a density at 15<sup>0</sup>C higher than 900kg/m<sup>3</sup>, beyond 5<sup>th</sup> April 2005 is not permitted.

(8) For the purposes of MARPOL Annex I, regulation 21.6.2 the continued operation of an oil tanker of 600 tonnes deadweight and above but less than 5,000 tonnes deadweight, carrying heavy grade cargo as oil beyond the anniversary of the date of the delivery of the ship in the year 2008 is not permitted.

(9) For the purposes of MARPOL Annex I, regulation 33, every crude oil tanker of 20,000 tonnes deadweight and above delivered after 1 June 1982 shall be fitted with a cargo tank cleaning system using crude oil washing which shall be proven to comply with the requirements of MARPOL Annex I, regulation 33 within one year after the tanker was first engaged in the trade of carrying crude oil or by the end of the third voyage carrying crude oil suitable for crude oil washing, whichever occurs later.

(10) For the purposes of MARPOL Annex I, regulation 36.9 the Oil Record Book shall be the Part II Oil Record Book, (cargo/ballast operations) as set out in Part II to Appendix III of MARPOL Annex I.

## **MARPOL Annex I - definitions**

7. For the purposes of MARPOL Annex I, references to:

“Annex II of the present Convention” shall be read as a reference to MARPOL Annex II which is the revised Annex II to the MARPOL Convention, Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk adopted by Resolution 118 (52) of the Maritime Environment Protection Committee (“MEPC”) of the IMO at its fifty-second session on the 15 October 2004 and coming into force on 1 January 2007;

the “Administration” shall be read in respect of MARPOL Annex I, regulations 3, 4 and 14.5 (exemptions and waivers, equivalents and oil filtering equipment respectively) as a reference to the Department, and in respect of all other references in MARPOL Annex I as a reference to the Department or an recognised organisation;

“discharge” shall mean in relation to harmful substances or effluents containing such substances any release howsoever caused from a ship and including any escape, disposal, spilling, leaking, pumping, emitting or emptying, and discharge does not include:

(a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972; or

(b) release of harmful substances directly arising from the exploration, exploitation and associated offshore processing of sea-bed mineral resources; or

(c) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control; and “to discharge” shall be construed accordingly;

“harmful substances” means any substance, which if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the MARPOL Convention;

“Organization” means the International Maritime Organization; and

“ship” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

## **Responsibilities of operator and master**

8. The operator and master of every ship shall each ensure that the condition of the ship and its equipment is operated and maintained so as to comply with the relevant provisions of these Regulations.

## **Approvals**

9. (1) Where MARPOL Annex I requires any system or equipment to be approved by the Administration, the systems and equipment shall, (as is appropriate) be of a type or design approved by the Department or by a recognised organisation.

(2) Any approval granted by the Department or recognised organisation under these Regulations:

- (a) shall be in writing;
- (b) shall specify the standards to which the system or equipment is approved;
- (c) shall specify the date on which it takes effect;
- (d) shall specify the conditions (if any) on which the approval is granted; and
- (e) may, on giving reasonable notice, be altered or cancelled by the Department or recognised organisation.

## **Exemptions and waivers**

10. (1) Any ship such as hydrofoil, air-cushion vehicle, near-surface craft and submarine craft whose constructional features are such as to render the application of any of the provisions of regulations 12 to 36 of MARPOL Annex I (relating to construction and equipment) unreasonable or impracticable may be exempted by the Department from such provisions, provided that the construction and equipment of that ship provides equivalent protection against pollution by oil, having regard to the service for which it is intended.

(2) Any exemption granted by the Department under paragraph (1) shall:

- (a) be indicated in the International Oil Pollution Prevention Certificate; and
- (b) communicated to the IMO in accordance with regulation 3(3) of MARPOL Annex I.

(3) The Department may grant exemptions from all of any of the provisions of these Regulations (as may be specified in the exemption) for classes of ships or individual ships on such terms (if any) as it may specify.

(4) Subject to paragraph (5), the Department may waive the requirements of regulations 29, 31 and 32 of MARPOL Annex I, for any oil tanker which engages exclusively on voyages both of 72 hours or less in duration and within 50 nautical miles from the nearest land, provided that the oil tanker is engaged exclusively in trades between ports or terminals within a State which is party to the MARPOL Convention.

(5) Any waiver granted by the Department under paragraph (4) shall be subject to the requirement that the oil tanker shall retain on board all oily mixtures for subsequent discharge to reception facilities and that the Department is satisfied that facilities available to receive such oily mixtures are adequate.

(6) Subject to paragraph (7), the Department may waive the requirements of regulations 31 and 32 of MARPOL Annex I for oil tankers other than those referred to paragraph (4) in cases where the tanker is engaged exclusively in one or more of the following categories of voyages:

(a) voyages within special areas; or

(b) voyages within 50 nautical miles from the nearest land outside special areas where the tanker is engaged in:

(i) trades between ports or terminals of a State which is party to the MARPOL Convention; or

(ii) restricted voyages as determined by the Department which are of 72 hours or less in duration.

(7) The waiver specified in paragraph (6) may be granted by the Department only if all of the following conditions are complied with:

(a) all oily mixtures are retained on board for subsequent discharge to reception facilities;

(b) for voyages specified in paragraph (6)(b), the Department is satisfied that adequate reception facilities are available to receive such oily mixtures in those oil loading ports or terminals the tanker calls at;

(c) the International Oil Pollution Prevention Certificate, when required, is endorsed to the effect that the ship is exclusively engaged in one or more of the categories of voyages specified in paragraphs (6)(a) and (6)(b)(ii); and

(d) the quantity, time and port of discharge are recorded in the Oil Record Book.

(8) The Department may waive the requirements of MARPOL Annex I, regulations 14.1 and 14.2 for:

(a) any ship engaged exclusively on voyages within special areas, or

(b) any ship certified under the High-Speed Craft Code (or otherwise within the scope of the Code with regard to size and design) engaged on a scheduled service with a turn-around time not exceeding 24 hours and also covering non-passenger/cargo-carrying relocation voyages for these ships.

(9) A waiver may be granted by the Department under paragraph (8) only if the following conditions are complied with:

(a) the ship is fitted with a holding tank having a volume adequate, to the satisfaction of the Department, for the total retention on board of the oily bilge water;

(b) all oily bilge water is retained on board for subsequent discharge to reception facilities;

(c) the Department is satisfied that adequate reception facilities are available to receive such oily bilge water in a sufficient number of ports or terminals the ship calls at;

(d) the International Oil Pollution Prevention Certificate, when required, is endorsed to the effect that the ship is exclusively engaged on the voyages within special areas or has been accepted as a high-speed craft for the purposes of this regulation and the service is identified; and

(e) the quantity, time, and port of the discharge are recorded in the Oil Record Book Part I.

(10) For the purposes of paragraph (9) (e) the oil record book is the Part I Oil Record Book set out in Part I to Appendix III of MARPOL Annex I.

(11) Any exemption or waiver granted by the Department under these regulations:

(a) shall be in writing;

(b) shall specify the date on which it takes effect;

(c) shall specify the conditions (if any) on which the exemption or waiver is granted; and

(d) may, on giving reasonable notice, be altered or cancelled by the Department.

## **Equivalents**

11. (1) The Department may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by MARPOL Annex I if such fitting, material, appliance or apparatus is at least as effective as that required by MARPOL Annex I.

(2) The authority of the Department to allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative under paragraph (1), shall not extend to the substitution of operational methods to effect the control of discharge of oil as equivalent to those design and construction features which are prescribed by regulations in MARPOL Annex I.

(3) The Department shall notify the IMO of any fitting, material, appliance or apparatus fitted in a ship as an alternative under paragraph (1).



- (4) Any equivalent permitted by the Department under these regulations:
- (a) shall be in writing;
  - (b) shall specify the date on which it takes effect;
  - (c) shall specify the conditions (if any) on which the equivalent is permitted; and
  - (d) may, on giving reasonable notice, be altered or cancelled by the Department.

## **Offences and Penalties**

12. (1) If there is a contravention of any of these Regulations (other than the requirement to comply with regulations 15 and 34 of MARPOL Annex I) the operator or master of the ship shall be guilty of an offence and punishable on summary conviction by a fine not exceeding, in respect of any one contravention £5,000 or on conviction on information by a fine.

(2) Any failure to comply with regulations 15 or 34 or MARPOL Annex I by the operator or master of the ship shall be a contravention of this paragraph for the purposes of article 4 (contravention of specified regulations: penalty) of the Merchant Shipping (Prevention of Oil Pollution) Order 1986.

(3) It shall be a defence for a person charged under this regulation to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) Where an offence under this regulation is committed, or would have been committed save for the operation of paragraph (3), by any person due to the act, or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this paragraph whether or not proceedings are taken against the first mentioned person.

## **Detention of Ships**

13. In any case where a ship is suspected of a contravention of any of the requirements of these Regulations, the ship shall be liable to be detained and section 74 of the Merchant Shipping (Registration) Act 1991<sup>4</sup> (which relates to the detention of a ship) shall have effect subject to the modification that as if for the words "this Act", wherever they appear, there were substituted the words "the Merchant Shipping (Prevention of Pollution by Oil) Regulations 2006".

Made: 6<sup>th</sup> November 2006

*Mr. Alex F Downie*

Minister for Trade and Industry

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<sup>4</sup> 1991 c.15

## **SCHEDULE 1**

## **Regulation 3 (1)**

### **REVOCATIONS**

1. The following Regulations are hereby revoked:
  - (a) GC214/86 Merchant Shipping (Prevention of Oil Pollution) Regulations 1986 and
  - (b) SD408/93 Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 1993.

**CONSEQUENTIAL AMENDMENTS**

1. In regulation 1(2) of the Merchant Shipping (Prevention of Oil Pollution) (Reception Facilities) Order 1986<sup>5</sup> the definition of “oil” shall be substituted with “means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than those petrochemicals which are subject to the provisions of Annex II to the Convention);”

2. The Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987<sup>6</sup> shall be amended as follows:

(1) In Regulation 1(2), (definitions) -

(a) in the definition of “IOPP Certificate” the words “and, in the case of a Manx ship, pursuant to the Prevention of oil Pollution Regulations” shall be revoked;

(b) in the definition of “MARPOL 73/78” insert after 1973 “(including its protocols, annexes and appendices)”;

(c) after the definition of “noxious liquid substances” insert as a new definition “ “oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than those petrochemicals which are subject to the provisions of Annex II to MARPOL 73/78);” ”

(d) the definition of “Prevention of Oil Pollution Regulations” shall be revoked;

(e) in the definition of “unassessed liquid substance” the words “as defined in the Prevention of Oil Pollution Regulations” shall be revoked.

(2) In Regulation 18 -

(a) in the first paragraph the words “13 of the Prevention of Oil Pollution Regulations” shall be substituted with “34 of Annex I of MARPOL 73/78”;

(b) in subparagraph (c), the words “regulation 15(3) of the Prevention of Oil Pollution Regulations” shall be substituted with “ Annex I of MARPOL 73/78”.

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<sup>5</sup> GC215/86

<sup>6</sup> GC147/87

3. In Schedule 2, Part II (application of subordinate legislation) to the Merchant Shipping (Demise Charter Register) Regulations 1991<sup>7</sup>, the following references shall be revoked –

214/86	Merchant Shipping (Prevention of Oil Pollution) Regulations 1986	The whole Regulations
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408/93	Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 1993	The whole Regulations
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4. The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995<sup>8</sup>, shall be amended as follows -

(a) In regulation 2(1) (interpretation and revocation), after the definition of “marine pollutant” there shall be inserted as a new definition - “MARPOL Annex I” means the revised Annex I to the MARPOL Convention containing Regulations for the Prevention of Pollution by Oil adopted by Resolution 117 (52) of the Maritime Environment Protection Committee (“MEPC”) of the IMO at its fifty-second session on the 15 October 2004, coming into force 1 January 2007 and includes appendices and unified interpretations to that Annex;”

(b) In regulation 6(1)(c) the words “the Merchant Shipping (Prevention of Oil Pollution) Regulations 1986” shall be substituted with “MARPOL Annex I”

5. In the Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 2000<sup>9</sup>, regulation 2 “amendment of GC214/86” shall be revoked.

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<sup>7</sup> GC394/91

<sup>8</sup> SD128/95

<sup>9</sup> SD316/00

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect (except in relation to oil reception facilities in the Isle of Man<sup>10</sup>) to Annex I of the International Convention for the Prevention of Pollution by Sea adopted by the International Maritime Organization (IMO) and amended by the Protocol of 1978 (MARPOL 73/78). Annex 1 of MARPOL 73/78 contains Regulations for the Prevention of Oil Pollution by Sea.

These Regulations give effect to Annex I of MARPOL 73/78 up and to including amendments adopted by the Maritime Environment Protection Committee (“MEPC”) of the IMO at its fifty-second session on the 1 November 2004, (coming into force Internationally 1 January 2007) and include appendixes and unified interpretations to that Annex.

These Regulations come into force on the 1 January 2007 and apply to all Manx ships and except for regulation 6, to all other ships whilst they are within the Isle of Man or its territorial waters. The Regulations require all ships to be operated, equipped and maintained in accordance with the provisions of Annex I of MARPOL 73/78 as apply in relation to a ship of its description.

The Regulations revoke and replace the Merchant Shipping (Prevention of Oil Pollution) Regulations 1986 (GC214/86).

(Please note in addition to these Regulations Manx ships over 80GT and under 400GT are required to comply with GC216/86 Merchant Shipping (Prevention of Oil Pollution) (Records) Regulations 1986.)

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<sup>10</sup> The requirements of MARPOL Annex I in respect of oil reception facilities in the Isle of Man is given effect by GC215/86 the Merchant Shipping (Prevention of Oil Pollution) (Reception Facilities) Order 1986