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The Department of Trade and Industry makes these Regulations under article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987.1

1 Title and commencement
(1) The title of these Regulations is the Merchant Shipping (MARPOL Annex II – Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 2008.

(2) These Regulations come into operation 7 days after they are approved by Tynwald2.

2 Interpretation
In these Regulations –

“Annex I” means the revised Annex I to MARPOL containing Regulations for the Control of Pollution by Oil adopted by IMO resolution MEPC.117 (52) on the 15 October 2004, coming into force on 1 January 2007 and includes the appendices and unified interpretations to that Annex, as amended;

1 GC 132/87 (This Order was made under section 14 of the Oil Pollution Act 1986 (1986 c.12))
2 Tynwald approval is required by section 17 of the Oil Pollution Act 1986
“Annex II” means the revised Annex II to MARPOL containing Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk up to and including those amendments by IMO resolution MEPC.118(52) adopted on 15 October 2004 and includes the appendices to that Annex;


“Cargo Record Book” means the book required by regulation 15 of Annex II;

“Category X” has the meaning assigned to it by regulation 6.1.1 of Annex II;

“Category Y” has the meaning assigned to it by regulation 6.1.2 of Annex II;

“Category Z” has the meaning assigned to it by regulation 6.1.3 of Annex II;

“Certificate of Fitness” means the International Certificate of Fitness for the Carriage of Liquefied Gasses in Bulk issued in accordance with Chapter 1 of the IGC Code;

“Convention country” means a country which is a party to MARPOL and for the purposes of regulations 12(1) and 12(2)(c) includes the Island;

“Department” means the Department of Trade and Industry;

“Gas Carrier Code” means -

(a) for gas tankers built on or after 2 November 1973, but constructed or converted prior to 1 July 1986, the 1976 edition of the IMO Code for Existing Ships Carrying Liquefied Gasses in Bulk, as amended;

(b) for gas tankers built or converted on or after 1 July 1986 the IGC Code;

“gas tanker” means a cargo ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other products listed in the Gas Carrier Code;

“IBC Code” has the meaning given by regulation 4 of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2015;

“IGC Code” has the meaning given by regulation 4 of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2015;
“IMO” means the International Maritime Organization;

“International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk” means a certificate set out in appendix 3 to Annex II;

“Manx ship” has the meaning as in section 1 of the Merchant Shipping Registration Act 1991, and includes ships registered under Part IV of that Act (register of ships chartered by demise);


“MARPOL” 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 November, 1973;

“MEPC” means the IMO Maritime Environment Protection Committee;

“MSC” means the IMO Maritime Safety Committee;

“NLS tanker” means a ship constructed or adapted to carry a cargo of noxious liquid substances in bulk and includes an “oil tanker” as defined in Annex I when carrying a cargo or part cargo of noxious liquid substances in bulk;

“noxious liquid substances” means any substance indicated in the Pollution Category column of chapter 17 or 18 of the IBC Code or provisionally assessed under the provisions of regulation 6 of Annex II, as falling into Category X, Category Y or Category Z;

“recognised organisation” means an organisation authorised to act as a recognised organisation by the Department and specified in Manx Shipping Notice 020; and

“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

3 1991 c.15
measured as far as the mean high water mark of ordinary spring tides.

3 **Construction of references to “permission of the Department”**

Without limiting section 26 of the Interpretation Act, 1976\(^4\) in regulations 8, 12 to 14 and Schedule 3 references to the “permission of the Department” means a permission granted –

(a) for individual cases or ships; or

(b) for classes of cases or classes of ships.

4 **Revocations and amendment of regulations**

(1) The revocations set out in Schedule 1 shall have effect.

(2) The consequential amendment set out in Schedule 2 shall have effect.

5 **Application**

(1) Subject to paragraphs (2) and (3), and to the provisions of individual regulations in Annex II, these Regulations apply to -

(a) all Manx Ships which carry noxious liquid substances in bulk; and

(b) all other ships which carry noxious liquid substances in bulk, whilst they are within the Island or the territorial waters thereof.

(2) Regulations 7 to 9, 10(1)(c), 10(2) and 11 to 15 do 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.

\(^4\) C.20
Requirement to comply with Annex II

(1) Subject to regulations 7 and 8 and the provisions of Annex II, any ship to which these Regulations apply shall be constructed, equipped and operated in accordance with the requirements of Annex II, as they apply in relation to a ship of its description.

(2) Where there is a footnote in Annex II, 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.

Annex II – Isle of Man requirements and interpretation

For the purposes of –

(a) regulation 8.1.2 of Annex II the renewal survey to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with applicable requirements of Annex II, shall be carried out at intervals not exceeding 5 years;

(b) regulation 9.4 of Annex II the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk need only be in English;

(c) regulation 10.1 of Annex II the period of issue for an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall not exceed 5 years;

(ca) regulation 11.1.1 of Annex II, regulations 21 and 22 of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2015 apply;

(d) regulation 11.2 of Annex II for ships other than chemical tankers or liquefied gas carriers certified to carry noxious liquid substances in bulk identified in Chapter 17 of the IBC Code, the appropriate measures to minimise the uncontrolled discharge into the sea are as follows -

(i) the “Guidelines for the Transport and Handling of Limited Amounts of Hazardous and Noxious Liquid Substances in Bulk of Offshore Support Vessels” adopted by IMO resolution A.673(16) on the 19 October 1989 as amended by resolution MSC.184(74) (9 December 2004) and resolution MSC.236(82) (1 December 2006); and
(ii) the “Revised Guidelines for the Transport of Vegetable Oils in Deep Tanks or in Independent Tanks Specially Designed for the Carriage of such Vegetable Oils in General Dry Cargo Ships” adopted by IMO resolution MEPC.148(54) (24 March 2006);

(d) regulation 14.1 of Annex II the Manual, must be approved by –

(i) the Department; or

(ii) a recognised organisation, unless the Department considers that, in the circumstances it must be approved by the Department or a recognised organisation selected by the Department;

(e) regulation 15 of Annex II the written entries in the Cargo Record Book need only be in English.

8 References to the “Administration” in Annex II
In addition to the individual provisions of these Regulations other references to the “Administration” in Annex II shall, in the case of the regulations of Annex II listed -

(a) in column 1 of the table in Schedule 3, be construed as a reference to the “Department”; and

(b) in column 2 of the table in Schedule 3, be construed as a reference to the “Department or, with the permission of the Department, a recognised organisation”.

9 Approval of systems or equipment
(1) Where Annex II requires any system or equipment to be approved by the Administration, the systems or equipment shall be of a type or design approved by –

(i) the Department; or

(ii) a recognised organisation, unless the Department considers that, in the circumstances it must be approved by the Department or a recognised organisation selected by the Department.
(2) An approval granted by the Department or a recognised organisation in accordance with paragraph (1) shall -

(a) be in writing;

(b) specify the standards to which the system or equipment is approved;

(c) specify the date on which it takes effect;

(d) specify the conditions (if any) on which the approval is granted; and may, on giving reasonable notice, be altered or cancelled by the Department or the recognised organisation.

10 Exceptions from discharge requirements

(1) In accordance with regulation 3 of Annex II, the discharge requirements of Annex II shall not apply to the discharge into the sea of noxious liquid substances or mixtures containing such substances when such a discharge -

(a) is necessary for the purpose of securing the safety of a ship or the saving of life at sea;

(b) results from damage to a ship or its equipment -

(i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge; and

(ii) except if the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(c) is approved by the Department and any Government in whose jurisdiction it is contemplated the discharge will occur, and is being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.
(2) An approval granted by the Department in accordance with paragraph (1)(c) -

(a) shall be in writing;

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

(c) shall specify the conditions (if any) under which the exception is permitted; and

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

11 Application of amendments to carriage requirements and exemptions

(1) In accordance with regulation 4.1 of Annex II, with respect to amendments to carriage requirements due to the upgrading of the categorisation of a substance, where an amendment to Annex II and the IBC Code and BCH Code involves changes to the structure or equipment and fittings due to the upgrading of the requirements for the carriage of certain substances, the Department may modify or delay for a specified period the application of such an amendment to ships constructed before the date of entry into force of that amendment, if the immediate application of such an amendment is considered to be unreasonable or impractical and such a relaxation shall be determined with respect to each substance.

(2) In allowing relaxation of the application of an amendment in accordance with paragraph (1), the Department shall submit a report to the IMO containing -

(a) the details of the ship concerned;

(b) the cargoes which the ship is certified to carry;

(c) the trade in which the ship is engaged; and

(d) the justification for the relaxation.

(3) Details of any relaxation granted in accordance with paragraph (1) shall be contained on the certificate referred to in regulation 7 (survey and certification of chemical tankers) or the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.
(4) Despite the relaxations referred to in paragraph (1) the Department may exempt ships from the carriage requirements under regulation 11 (design, construction, equipment and operations) of Annex II, for ships certified to carry individually identified vegetable oils identified by the relevant footnote in chapter 17 of the IBC Code, provided the ship complies with the following conditions -

(a) NLS tankers shall meet all requirements for ship type 3 as identified in the IBC Code, except for the cargo tank location requirements;

(b) cargo tanks shall be located at the distances specified in sub-paragraphs (i) and (ii) and the entire cargo tank length shall be protected by ballast tanks or spaces other than tanks that carry oil as follows -

(i) wing tanks or spaces shall be arranged such that cargo tanks are located inboard of the moulded line of the side shell plating nowhere less than 760mm; and

(ii) double bottom tanks or spaces shall be arranged such that the distance between the bottom of the cargo tanks and the moulded line of the bottom shell plating measured at right angles to the bottom shell plating is not less than \( \frac{B}{15} \) (m) or 2.0m at the centerline, whichever is the lesser, but in any case the minimum distance shall be 1.0m;

(c) the certificate referred to regulation 7 (survey and certification of chemical tankers) or the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk, shall indicate the exemption granted.

12 **Exemptions in respect of pumping, piping, unloading arrangements and slop tanks**

(1) In accordance with regulation 4.2 of Annex II, the Department or a recognised organisation acting with the permission of the Department, may exempt ships constructed before 1 July 1986, from the provisions of regulation 12.1 of Annex II (pumping, piping, unloading arrangements and slop tanks) if the ship is engaged in restricted voyages as determined by the Department between -
(a) ports or terminals within a Convention country; or

(b) ports or terminals of Convention countries.

(2) An exemption under paragraph (1) may only be granted if –

(a) each time a tank containing Category X, Category Y or Category Z substances or mixtures is to be washed or ballasted, the tank is washed in accordance with a prewash procedure approved by the Department or a recognised organisation in compliance with appendix 6 to Annex II and the tank washings are discharged to a reception facility;

(b) subsequent washings or ballast water are discharged to a reception facility or at sea in accordance with other provisions of Annex II; and

(c) the adequacy of the reception facilities at the ports or terminals referred to in paragraphs (a) and (b) is approved by the Governments of the Convention countries, within which such ports or terminals are situated.

(3) For those ships engaged in voyages to ports or terminals under the jurisdiction of other Convention countries -

(a) the Department must notify the IMO of the particulars of an exemption granted in accordance with paragraph (1)(b); and

(b) the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk required under Annex II must be endorsed, by the Department or the recognised organisation that has granted the exemption under paragraph (1), to the effect that the ship is solely engaged in such restricted voyages.

(4) The Department or a recognised organisation acting with the permission of the Department, may grant an exemption from the provisions of regulation 12 (pumping, piping, unloading arrangements and slop tanks) of Annex II for those ships whose constructional and operational features are such that ballasting of cargo tanks is not required and cargo tank washing is only required for repair or dry-docking provided that -
(a) the design, construction and equipment of the ship are approved by –

(i) the Department; or

(ii) a recognised organisation, unless the Department considers that, in the circumstances it must be approved by the Department or a recognised organisation selected by the Department;

having regard to the service for which it is intended;

(b) any effluent from tank washings which may be carried out before a repair or dry-docking is discharged to a reception facility, the adequacy of which is to be ascertained by the Department or the recognised organisation that has granted the exemption in accordance with paragraph (4);

(c) the certificate referred to in regulation 4.4.3 of Annex II indicates –

(i) that each cargo tank is certified for the carriage of a restricted number of substances which are comparable and can be carried alternately in the same tank without intermediate cleaning; and

(ii) the particulars of the exemption;

(d) the ship carries a Manual, approved as required by regulation 7 (e).

(5) For those ships engaged in voyages to ports or terminals under the jurisdiction of other Convention countries, the Department shall notify the IMO of the particulars of any exemption granted in accordance with paragraph (4).

13 **Equivalents**

(1) In accordance with regulation 5 of Annex II the Department or a recognised organisation acting with the permission of the Department, may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by Annex II if such fitting, material, appliance or apparatus is at least as effective as that required by Annex II.
(2) The power in paragraph (1) shall not extend to the substitution of operational methods to effect the control of discharge of noxious liquid substances as equivalent to those design and construction features which are prescribed by Annex II.

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

(4) Despite paragraphs (1) to (3) the construction and equipment of liquefied gas carriers certified to carry noxious liquid substances listed in the applicable Gas Carrier Code, shall be deemed to be equivalent to the construction and equipment requirements contained in regulation 11 (design, construction, equipment and operations) and regulation 12 (pumping, piping, unloading arrangements and slop tanks) of Annex II, providing that the gas carrier -

(a) holds a Certificate of Fitness in accordance with the appropriate Gas Carrier Code for ships to carry liquefied gases in bulk;

(b) holds an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in which it is certified that the gas carrier may carry only those noxious liquid substances identified and listed in the appropriate Gas Carrier Code;

(c) has segregated ballast arrangements;

(d) has pumping and piping arrangements, approved as required by regulation 9 (1), which ensures the quantity of cargo residue remaining in the tank and its associated piping after unloading does not exceed the applicable quantity of residue as required by regulation 12.1, 12.2, and 12.3 (pumping, piping, unloading arrangements and slop tanks) of Annex II; and

(e) has a Manual, approved as required by regulation 7(e), ensuring that no operational mixing of cargo residues and water will occur and that no cargo residues will remain in the tank after applying the ventilation procedures prescribed in the Manual.
Form of relaxations, exemptions and equivalents
A relaxation or exemption granted in accordance with regulation 11 or 12 or an equivalent permitted in accordance with regulation 13 –

(a) must be in writing;

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

(c) must specify the conditions (if any) under which the relaxation, exemption or equivalent is permitted; and

(d) may, on giving reasonable notice, be altered or cancelled by the Department or, acting with the permission of the Department, by a recognised organisation.

Waivers
(1) In accordance with regulation 13.2.3 of Annex II relating to discharge standards, the Department may waive the requirement that a discharge is made at a distance of not less than 12 nautical miles from the nearest land for Manx ships carrying substances in Category Z providing that –

(a) the ship is solely engaged in voyages within territorial waters; or

(b) the ship is engaged in voyages within the waters subject to the sovereignty or jurisdiction of one adjacent country, after the establishment of an agreement, in writing, of a waiver between the two coastal countries involved provided no third party will be affected.

(2) Any agreement obtained in accordance with paragraph (1)(b) shall be communicated by the Department to the IMO within 30 days.

(3) Any waiver permitted by the Department in accordance with this regulation -

(a) shall be in writing;

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

(c) shall specify the conditions (if any) under which the waiver is permitted; and
(d) may, on giving reasonable notice, be altered or cancelled by the Department.

16 Offences and penalties
(1) Any contravention of these Regulations shall be an offence by both the owner and the master of that ship punishable on summary conviction to a fine not exceeding £5,000 and on conviction on information by imprisonment for a term not exceeding two years and a fine.

(2) In paragraph (1) “owner” includes any person or organisation, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship.

(3) It shall be a defence for a person charged under these Regulations to show that he or she took all reasonable steps to avoid the commission of the offence.

(4) Where the commission by any person of an offence under these Regulations is 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 the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

17 Power to detain
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 (detention of ships) 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 (MARPOL Annex II – Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 2008”.

MADE 15/12/08

D.C. Cretney M.H.K.

Minister for Trade and Industry

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5 1991 c.15
The following regulations are revoked –

(a) The Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987;

(b) The Merchant Shipping (IBC Code) Regulations 1987; and

(c) The Merchant Shipping (BCH Code) Regulations 1987.

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6 GC 147/87
7 GC 148/87
8 GC 149/87
CONSEQUENTIAL AMENDMENT

In regulation 2(1) of the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995\(^9\), for the definition of “noxious liquid substance” substitute –

““noxious liquid substance” has the meaning as in regulation 2 of the Merchant Shipping (MARPOL Annex II – Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 2008\(^{10}\);”.

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\(^9\) SD 128/95
\(^{10}\) SD 977/08
Table of other references to the “Administration” in Annex II.

<table>
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<tr>
<th>To be construed as a reference to the “Department “only</th>
<th>To be construed as a reference to the “Department or, with the permission of the Department, a recognised organisation”</th>
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<td></td>
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</tbody>
</table>
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to the revised Annex II to the MARPOL Convention - Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk, as amended by Resolution MEPC.118(52) adopted by IMO on the 15 October 2004, which contains a new categorisation system for the control of noxious and liquid substances.

These Regulations apply to all Manx ships which carry noxious liquid substances in bulk wherever they may be. With the exception of regulations 7 to 9, 10(1)(c), 10(2) and 11 to 15, these regulations also apply to all other ships which carry noxious liquid substances in bulk whilst they are within the Isle of Man or the territorial waters thereof. Any ship to which these Regulations apply shall be constructed, equipped and operated in accordance with the requirements of MARPOL Annex II. The Regulations shall come into operation 7 days after they are approved by Tynwald.

The Regulations also revoke and replace the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987 (GC 147/87), the Merchant Shipping (IBC) Regulations 1987 (GC 148/87) and the Merchant Shipping (BCH Code) Regulations 1987 (GC 149/87)(see Schedule 1). In addition a small consequential amendment is made to the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995(SD 125/95) (see Schedule 2).

Copies of the MARPOL Convention and applicable Codes may be obtained from the International Maritime Organization, 4 Albert Embankment, London SW1 7SR or on line at http://www.imo.org/index.htm.

These Regulations are marked in bold italic type with amendments made to these Regulations by SD2015/0230 Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2015.