



# MERCHANT SHIPPING (MARPOL ANNEX II - CONTROL OF POLLUTION BY NOXIOUS LIQUID SUBSTANCES IN BULK) ORDER 2020

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Statutory Document No.2020/0231



*Oil Pollution Act 1986*

## MERCHANT SHIPPING (MARPOL ANNEX II - CONTROL OF POLLUTION BY NOXIOUS LIQUID SUBSTANCES IN BULK) ORDER 2020

*Approved by Tynwald: 19 May 2020*

*Coming into Operation: 1 June 2020*

The Department for Enterprise, after consultation with the Secretary of State, makes the following Order under section 14 of the Oil Pollution Act 1986.

### PART 1 - INTRODUCTORY

#### 1 Title

This Order is the Merchant Shipping (MARPOL Annex II - Control of Pollution by Noxious Liquid Substances in Bulk) Order 2020.

#### 2 Commencement

If approved by Tynwald, this Order comes into operation on 1 June 2020<sup>1</sup>.

#### 3 Interpretation

In this Order —

“**Bulk Chemical Code**” means the Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk, adopted by IMO Resolution MEPC.20(22) on 5 December 1985, including all amendments made to that Code up to and including those adopted by IMO Resolution MEPC.303(72) on 13 April 2018 which came in to force on 1 January 2020;

“**category X, Y or Z substances**” has the meaning given in MARPOL Annex II, regulation 6 (categorization and listing of noxious liquid substances and other substances);

“**Cargo Record Book**” means the Cargo Record Book specified by MARPOL Annex II regulation 15;

<sup>1</sup> Tynwald approval is required by section 17 of the Oil Pollution Act 1986.

- “**certificate required under MARPOL Annex II**” means the certificate referred to in MARPOL Annex II regulation 7 (survey and certification of chemical tankers), or the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk referred to in MARPOL Annex II regulation 9 (issue or endorsement of certificate), as appropriate;
- “**chemical tanker**” has the meaning given by regulation 1.16.1 of Annex II of the MARPOL Convention;
- “**controlled marine area**” has the meaning given by section 7 of the *Marine Infrastructure Management Act 2016*;
- “**Convention country**” means a country which has consented to be bound by the MARPOL Convention;
- “**Department**” means the Department for Enterprise;
- “**gas carrier**” means a cargo ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in Chapter 19 of the IGC Code;
- “**IGC Code**” has the meaning given by regulation 4 of the *Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022*<sup>2</sup>;
- “**IMO**” means the International Maritime Organization;
- “**IBC Code**” has the meaning given by regulation 4 of the *Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022*;
- “**inspector**” means a person appointed as an inspector under section 3 of the *Merchant Shipping Act 1985*;
- “**Manx ship**” has the meaning given by section 1 of the *Merchant Shipping Registration Act 1991* and includes a ship registered under Part IV of that Act (register of ships chartered by demise) or under Part 3 of the *Harbours Act 2010* (pleasure craft and certain other vessels);
- “**MARPOL Annex I**” has the meaning given by regulation 3 of the Merchant Shipping (MARPOL Annex I - Prevention of Pollution by Oil) Order 2019<sup>3</sup>;
- “**MARPOL Annex II**” means –
- (a) up to and including 30 September 2020, Annex II to the MARPOL Convention including all amendments made to that Annex up to and including those adopted by IMO Resolution MEPC.270(69) on 22 April 2016 and which came in to force on 1 September 2017; and
  - (b) from 1 October 2020 Annex II to the MARPOL Convention including all amendments made to that Annex up to and including those adopted by IMO Resolution MEPC.314(74) on 17 May 2019 and which comes in to force on 1 October 2020; and

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<sup>2</sup> SD2022/0294

<sup>3</sup> SD2019/0239

(c) from 1 January 2021 if adopted in accordance with the requirements of the MARPOL Convention Article 16, Annex II to the MARPOL Convention including all amendments made to that Annex up to and including those adopted by IMO Resolution MEPC.315(74) on 17 May 2019 and which comes in to force on 1 January 2021;

“**MARPOL Convention**” means the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocols of 1978 and 1997;

“**MSN**” means a Manx Shipping Notice issued by the Department, and includes any document which amends that notice;

“**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 MARPOL Annex I when certified to carry a cargo or part cargo of noxious liquid substances in bulk;

“**Noxious liquid substance**” 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 MARPOL Annex II regulation 6.3, as a category X, Y or Z substance;

“**operator**” in relation to a ship means –

- (a) the owner of a ship; or
- (b) any other organisation or person (for example, the manager, or bareboat charterer of the ship) –
  - (i) that has assumed responsibility for operation of the ship from the owner; and
  - (ii) that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the MARPOL Convention;

“**Polar Code**” means the International Code for Ships Operating in Polar Waters, including all amendments made to that Code up to and including those adopted by IMO Resolution MEPC.264(68) on 15 May 2015 which came in to force on 1 January 2017;

“**polar waters**” has the meaning given by MARPOL Annex II regulation 21;

“**Procedures and Arrangements Manual**” means the manual required by MARPOL Annex II, regulation 14.1;

“**RO**” means any of the recognised organisations specified in MSN 020;

“**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;

“**substances in category Z**” means the substances specified in MARPOL Annex II, regulation 6 (categorization and listing of noxious liquid substances and other substances) as being within category Z; and

“**territorial waters of the Island**” means —

- (a) the territorial sea adjacent to the Isle of Man (as that term is defined in section 1(1) of the *Territorial Sea Act 1987*<sup>4</sup> (as applied to the Island); and
- (b) the controlled marine area.

#### 4 Application

- (1) Unless expressly provided otherwise, Parts 1 and 2 of this Order apply to all Manx ships which carry noxious liquid substances in bulk.
- (2) Unless expressly provided otherwise, Parts 1 and 3 of this Order apply to a foreign ship which carries noxious liquid substances in bulk whilst it is within the territorial waters of the Island.
- (3) Despite paragraphs (1) and (2), this Order does not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government, non-commercial service.

#### 5 Operator’s responsibility

- (1) The operator of a ship must ensure that the ship complies with such of the requirements of this Order as apply in relation to a ship of its description.
- (2) Paragraph (1) applies whether or not this Order imposes an obligation on another person.
- (3) An operator who fails to comply with paragraph (1) commits an offence and is liable —
  - (a) on conviction on information —
    - (i) in the case of a body corporate, to a fine; or
    - (ii) in the case of an individual, to a fine or custody for a term not exceeding 2 years, or both; or
  - (b) on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### 6 Provisions relating to offences

- (1) It is a defence for a person charged with an offence under this Order to show that the person took all reasonable steps to avoid the commission of the offence.

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<sup>4</sup> 1987 C. 49, as extended to the Island by SI 1991/1722.

- (2) If the commission by any person of an offence under this Order is due to the act or default of some other person, that other person –
  - (a) commits the offence; and
  - (b) may be charged with and convicted of the offence by virtue of this Order,whether or not proceedings are taken against the first-mentioned person.

## **PART 2 - PREVENTION OF POLLUTION BY NOXIOUS LIQUID SUBSTANCES IN BULK**

### **7 Requirement to comply with MARPOL Annex II**

- (1) A ship must comply with such of the requirements of MARPOL Annex II as apply in relation to a ship of its description.
- (2) In accordance with MARPOL Annex II regulation 2.2 (Application), the appropriate requirements of MARPOL Annex I also apply if a cargo subject to the provisions of MARPOL Annex I is carried in a cargo space of a ship that is an NLS tanker.
- (3) In accordance with MARPOL Annex II regulation 11 (Design, construction, equipment and operations), for a ship constructed on or after 1 July 1986, the design, construction, equipment and operation of ships certified to carry noxious liquid substances in bulk identified in Chapter 17 of the IBC Code, must be in compliance with the IBC Code as required by *regulation 24 of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022* to minimise the uncontrolled discharge into the sea of noxious liquid substances.
- (4) For the purposes of MARPOL Annex II, regulation 11.2 (Design, construction, arrangement and equipment), the appropriate measures for ships (other than chemical tankers or gas carriers which are certified to carry noxious liquid substances in bulk identified in chapter 17 of the IBC Code), are specified in MSN 067.
- (5) In accordance with MARPOL Annex II regulation 22 (Application and requirements), all ships certified to carry noxious liquid substances in bulk operating in polar waters must –
  - (a) comply with the environment related provisions of the introduction and with Chapter 2 of Part II-A of the Polar Code, in addition to any other applicable requirements of MARPOL Annex II; and
  - (b) in applying chapter 2 of Part II-A of the Polar Code, consider the additional guidance in Part II-B of the Polar Code.
- (6) Unless the context clearly indicates otherwise, references to “Administration” in MARPOL Annex II are to be read as references to the

Department or RO, subject to any more specific provision in this Order or MSN 067.

- (7) If there is a footnote in MARPOL 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 must be treated as part of the requirement.

## 8 Exceptions from discharge requirements

- (1) In accordance with MARPOL Annex II, regulation 3 (Exceptions), the discharge requirements of MARPOL Annex II and chapter 2 of Part II-A of the Polar Code do not apply to the discharge into the sea of noxious liquid substances or mixtures containing those substances when the discharge –
- (a) is necessary for the purpose of securing the safety of a ship or saving life at sea; or
  - (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 the Government in whose jurisdiction it is contemplated the discharge will occur, when being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.
- (2) The approval of the Department required by paragraph 1(c) is only valid if –
- (a) it is in writing;
  - (b) it specifies the date on which it takes effect; and
  - (c) any conditions stated in it are met.

## 9 Exemptions

- (1) In accordance with MARPOL Annex II regulation 4.1 (Exemptions), the Department may modify or delay the application of amendments to MARPOL Annex II and the IBC Code which involve changes to a ship's structure or equipment and fittings due to the upgrading of the requirements for the carriage of certain substances.
- (2) An exception under paragraph (1) –



- (a) may only be granted to a ship —
    - (i) constructed before the date of entry into force of that amendment;
    - (ii) if the immediate application of such an amendment is considered unreasonable or impracticable; and
    - (iii) for a specified period;
  - (b) must be determined with respect to each substance; and
  - (c) must be included in the certificates required under MARPOL Annex II regulation 7 (Survey and certification of chemical tankers) or regulation 9 (Issue and endorsement of certificate).
- (3) The Department must submit a report to IMO of any relaxation permitted under paragraph (1), giving details of —
- (a) the ship or ships concerned;
  - (b) the cargoes certified to carry;
  - (c) the trade in which each ship is engaged; and
  - (d) the justification for the relaxation.
- (4) In accordance with MARPOL Annex II regulation 4.1.3 (Exemptions), and despite the relaxation referred to in paragraph (1), the Department may exempt ships from the carriage requirements under MARPOL Annex II regulation 11 (Design, construction, equipment and operation), for ships certified to carry individually identified vegetable oils identified by the relevant footnote in chapter 17 of the IBC Code.
- (5) An exemption issued under paragraph (4) may only be issued by the Department provided the ship complies with the following conditions —
- (a) an NLS tanker must meet all requirements for ship type 3 as identified in the IBC Code except for cargo tank location;
  - (b) cargo tanks must be located at the distances specified in subparagraphs (i) and (ii), and the entire cargo tank length must be protected by ballast tanks or spaces other than tanks that carry oil as follows —
    - (i) wing tanks or spaces must be arranged so that cargo tanks are located inboard of the moulded line of the side shell plating nowhere less than 760mm;
    - (ii) double bottom tanks or spaces must be arranged so 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  $B/15$ (m) or 2.0m at the centreline, whichever is the lesser; but in any case the minimum distance must be 1.0m.

- (6) An exemption issued under paragraph (4) must be specified on the certificate required under MARPOL Annex II.
- (7) In accordance with MARPOL Annex II regulation 4.2 (Exemptions), the Department may exempt a ship constructed before 1 July 1986 from the provisions of MARPOL Annex II regulation 12.1 (Pumping, piping, unloading arrangements and slop tanks), which 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.
- (8) An exemption under paragraph (7) may only be issued subject to the following conditions –
  - (a) each time a tank containing category X, Y or 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 RO in compliance with MARPOL Annex II Appendix VI (Prewash procedures), 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 MARPOL Annex II; and
  - (c) the adequacy of the reception facilities at the ports or terminals referred to in paragraphs 7(a) and (b), is approved by the Governments of Convention countries within which those ports or terminals are situated.
- (9) If an exemption is issued under paragraph (7) for ships engaged in voyages to ports or terminals under the jurisdiction of other Convention countries –
  - (a) the Department must notify IMO of the particulars of the exemption; and
  - (b) the certificate required under MARPOL Annex II must be endorsed to the effect that the ship is solely engaged in such restricted voyages.
- (10) In accordance with MARPOL Annex II regulation 4.4 (Exemptions), the Department may allow an exemption from the provisions of MARPOL Annex II regulation 12 (Pumping, piping, unloading arrangements and slop tanks), for a ship 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.
- (11) An exemption under paragraph (10) may only be issued if all of the following conditions are complied with –

- (a) the design, construction and equipment of the ship is approved by the Department or RO, 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 the satisfaction of the Department;
  - (c) the certificate required under MARPOL 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; and
  - (d) the ship carries a Procedures and Arrangements Manual approved by the Department or RO.
- (12) If an exemption is issued under paragraph (10) in the case of ships engaged in voyages to ports or terminals under the jurisdiction of other Convention countries, the Department must notify IMO of the particulars of the exemption.

## 10 Equivalentents

- (1) In accordance with MARPOL Annex II regulation 5.1 (Equivalentents), 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 II if such fitting, material, appliance or apparatus is at least as effective as that required by MARPOL Annex II.
- (2) An equivalentent issued under paragraph (1) —
  - (a) may not permit substitution of operational methods to effect the control of discharge of noxious liquid substances as equivalentent to those design and construction features which are prescribed by MARPOL Annex II; and
  - (b) must be notified to IMO by the Department.

## 11 Waiver

- (1) In accordance with MARPOL Annex II regulation 13.2.3 (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 if —
  - (a) the ship is solely engaged in voyages within the territorial waters of the Island; or

- (b) the ship is engaged in voyages within the waters subject to the sovereignty or jurisdiction of one country adjacent to the Island.
- (2) A waiver under paragraph 1(b) may only be issued after the establishment of an agreement, in writing, of a waiver between the two coastal countries involved and provided that no third party will be affected.
- (3) Information on an agreement in accordance with paragraph (2) must be communicated to IMO by the Department within 30 days.

## 12 Validity of approvals, exemptions, equivalents and waivers

An approval required by MARPOL Annex II, or an exemption, equivalent or waiver permitted by MARPOL Annex II is only valid if –

- (a) it is in writing;
- (b) it specifies the date on which it takes effect; and
- (c) for an approval, exemption or waiver, any conditions stated in it are met.

## 13 Maintenance of conditions after survey

For the purposes MARPOL Annex II regulation 8.3.3 (Surveys), whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by MARPOL Annex II –

- (a) the master or operator of the ship must report at the earliest opportunity –
  - (i) to the RO responsible for issuing the relevant Certificate; and
  - (ii) to the Department who shall cause investigations to be initiated to determine whether a survey as required by MARPOL Annex II regulation 8.1 (Surveys) is necessary;
- (b) if the ship is in a port of another Convention country, the master or operator must also report immediately to the appropriate authorities of the port State; and
- (c) the Department or RO must ascertain that the report required under paragraph (a) has been made.

## 14 Issue or endorsement of certificates by another government

- (1) In accordance with MARPOL Annex II regulation 9.3 (Issue or endorsement of certificate), the Department may request the Government of a Convention country to –
  - (a) survey a Manx ship; and

- (b) endorse or issue certificates to the ship in accordance with MARPOL Annex II if the Government of the Convention country is satisfied that the requirements of MARPOL Annex II are complied with.
- (2) When acting in accordance with paragraph (1), the Department must specifically request that any certificate issued contain a statement to the effect that it has been issued at the request of the Government of the Isle of Man.

## **15 Duration and validity of International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk**

- (1) Subject to paragraph (2), for the purposes of MARPOL Annex II regulation 10.1 (Duration and validity of certificate), an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk is valid for the period stated in it, not exceeding five years beginning with the date of completion of the relevant initial or renewal survey which immediately preceded the issue of the certificate.
- (2) Despite paragraph (1), the validity of an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk may exceed 5 years in the circumstances specified in MARPOL Annex II regulation 10 (Duration and validity of certificate).

## **16 Language**

For the purposes of MARPOL Annex II regulations 9.4 (Issue or endorsement of certificate), 14.1 (Procedures and Arrangements Manual) and 15 (Cargo Record Book) respectively, the following must be in English –

- (a) the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;
- (b) the Procedures and Arrangements Manual; and
- (c) the entries in the Cargo Record Book for ships holding a certificate required under MARPOL Annex II.

## **PART 3 - FOREIGN SHIPS**

### **17 Requirement to comply with MARPOL Annex II**

- (1) A foreign ship in the territorial waters of the Island must comply with such of the requirements of MARPOL Annex II as apply in relation to a ship of its description.
- (2) In accordance with MARPOL Annex II regulation 2.2 (Application), the appropriate requirements of MARPOL Annex I also apply if a cargo

subject to the provisions of MARPOL Annex I is carried in a cargo space of a foreign ship that –

- (a) is an NLS tanker, and
  - (b) is in the territorial waters of the Island.
- (3) In accordance with MARPOL Annex II regulation 11 (Design, construction, equipment and operations), the design construction, equipment and operation of a foreign ship that –
- (a) is certified to carry noxious liquid substances in bulk identified in Chapter 17 of the IBC Code, and
  - (b) is in the territorial waters of the Island,

must be in compliance with the provisions specified in paragraph (4) to minimise the uncontrolled discharge into the sea of such substances.

- (4) The provisions referred to in paragraph (3) are –
- (a) the IBC Code as required by *regulation 24 of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022*, for a chemical tanker constructed on or after 1 July 1986;
  - (b) the Bulk Chemical Code as referred to in paragraph 1.7.2 of that Code for a ship for which the building contract was placed on or after 2 November 1973 but which was constructed before 1 July 1986; or
  - (c) the Bulk Chemical Code as referred to in paragraph 1.7.3 of that Code for a ship for which the building contract was placed before 2 November 1973.

## 18 Inspection of a foreign ship

- (1) A foreign ship in a port or offshore terminal of the Island may be subject to inspection by an inspector to verify –
- (a) that the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk for the ship is valid;
  - (b) compliance with operational requirements under MARPOL Annex II with respect to the ship, where there are clear grounds for an inspector to believe that the master or crew of the ship are not familiar with essential shipboard procedures relating to the prevention of pollution by harmful substances; or
  - (c) whether the ship has discharged any harmful substances in violation of the provisions of MARPOL Annex II.
- (2) *For the purposes of this Part an inspector—*
- (a) *may accept any certificate that the inspector considers to be equivalent to the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk specified in*

*paragraph (1) if the flag State of the foreign ship is not a Convention country;*

- (b) *must accept —*
  - (i) *an International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk issued to a chemical tanker in accordance with the IBC Code; or*
  - (ii) *a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk issued to a chemical tanker in accordance with the Bulk Chemical Code,*  
*as equivalent to the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk specified in paragraph (1).*
- (3) In accordance with Article 6.5 (Detection of violations and enforcement of the Convention) of the MARPOL Convention, an inspector may also inspect a ship to which the MARPOL Convention applies when the ship enters a port or offshore terminal of the Island, if —
  - (a) a request for an investigation is received from a Convention country; and
  - (b) the request is accompanied by sufficient evidence that the ship has discharged harmful substances or effluents containing harmful substances in any place.
- (4) The report of an investigation made under paragraph (3) must be sent to the Convention country requesting it so that the appropriate action may be taken under the MARPOL Convention.
- (5) In accordance with MARPOL Annex II regulation 15.6 (Cargo Record Book) —
  - (a) an inspector may inspect the Cargo Record Book on board any ship to which MARPOL Annex II applies while the ship is in a port or offshore terminal of the Island, and may make a copy of any entry in that book and may require the master of the ship to certify that the copy is a true copy of such entry;
  - (b) any copy made in accordance with paragraph (a) certified by the master of the ship as a true copy of an entry in the ship's Cargo Record Book, is admissible in any judicial proceedings as evidence of the facts stated in the entry; and
  - (c) the inspection of a Cargo Record Book and the taking of a certified copy by the inspector under this paragraph must be performed as expeditiously as possible without causing the ship to be unduly delayed.

## 19 Provision relating to enforcement and detention of a foreign ship

- (1) If an inspector carries out an inspection in accordance with article 18(1)(a) and finds that —
  - (a) the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk for the foreign ship is not produced, has expired or ceased to be valid; or
  - (b) there are clear grounds for believing that the condition of the foreign ship or its equipment does not correspond substantially with the particulars of that certificate;

the foreign ship may be detained until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment.

- (2) Despite paragraph (1), an inspector may grant a foreign ship permission to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard available.
- (3) If an inspector carries out an inspection in accordance with article 18(1)(b) and there are clear grounds for an inspector to believe the master or crew of a foreign ship are not familiar with essential shipboard procedures relating to the prevention of pollution by noxious liquid substances, the ship may be detained until the situation has been brought to order in accordance with the requirements of MARPOL Annex II.
- (4) If an inspector carries out an inspection in accordance with article 18(1)(c), and the inspection indicates a violation of the MARPOL Convention, a report must be forwarded to the Government of the Convention country of the foreign ship.
- (5) If an inspection is conducted, or measures are taken in accordance with this article, all reasonable efforts must be made to avoid a foreign ship being unreasonably detained or delayed.
- (6) If a foreign ship operator considers a ship has been unreasonably detained or delayed, the foreign ship operator may apply to the High Bailiff for a declaration to that effect.
- (7) An application under paragraph (6) —
  - (a) may not be made more than 7 days after the detention or delay has ceased;
  - (b) must be made in writing; and
  - (c) must be served on the Department as well as the High Bailiff.
- (8) On an application under paragraph (6) it is for the applicant to show, on the balance of probabilities, that —
  - (a) the ship's detention or delay was unreasonable in all the circumstances; and



- (b) the foreign ship operator has suffered loss in consequence of that detention or delay.
- (9) If the High Bailiff is satisfied that the requirements of paragraph (8) are met, the High Bailiff may order the Department to pay such compensation as appears appropriate.
- (10) If a foreign ship is detained in accordance with this article, section 74 (detention of ships) of the *Merchant Shipping Registration Act 1991* has effect, subject to the following modifications –
- (a) in sub-sections (1) and (2), after “officer of the Department,” insert **“or any inspector, ”**;
- (b) in sub-section (3), for “this Act” (wherever occurring) substitute **“the MARPOL Annex II Order ”**; and
- (c) after sub-section (3) insert –
- “(4) In this section –**  
**“inspector”** has the meaning given by article 3 of the MARPOL Annex II Order; and  
**“MARPOL Annex II Order”** means the Merchant Shipping (MARPOL Annex II - Control of Pollution by Noxious Liquid Substances in Bulk) Order 2020. **”**

## PART 4 - REVOCATIONS AND CONSEQUENTIAL AMENDMENTS

### 20 Revocations

The following are revoked –

- (a) The Merchant Shipping (MARPOL Annex II – Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 2008<sup>5</sup>;
- (b) The Merchant Shipping (Prevention and Control of Pollution) (Amendment) Regulations 1995<sup>6</sup>;
- (c) The Merchant Shipping (Prevention and Control of Pollution) (Amendment) Regulations 1991<sup>7</sup>;
- (d) The Merchant Shipping (Prevention and Control of Pollution) Order 1990<sup>8</sup>;

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<sup>5</sup> SD 977/08

<sup>6</sup> SD 465/95

<sup>7</sup> GC 160/91

<sup>8</sup> GC 469/90

- (e) The Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk)(Amendment) Regulations 1988<sup>9</sup>; and
- (f) The Merchant Shipping (Prevention and Control of Pollution) Order 1987<sup>10</sup>.

**21 Consequential Amendments**

(1) In article 4 (Interpretation), of the Merchant Shipping (MARPOL Protocol I - Reports on Incidents Involving Harmful Substances) Order 2015<sup>11</sup>,

(a) for the definition of “MARPOL Annex II” substitute –

☒ **“MARPOL Annex II”** has the meaning given by article 3 of the Merchant Shipping (MARPOL Annex II - Control of Pollution by Noxious Liquid Substances in Bulk) Order 2020<sup>12</sup>; ☒; and

(b) for the definition of “noxious liquid substances” substitute –

☒ **“noxious liquid substance”** has the meaning given by article 3 of the Merchant Shipping (MARPOL Annex II - Control of Pollution by Noxious Liquid Substances in Bulk) Order 2020<sup>13</sup>; ☒.

(2) The Merchant Shipping (Demise Charter Register) Regulations 1991<sup>14</sup> are amended by omitting from Schedule 2, Part II (in the table entitled ‘Application of provisions of subordinate legislation’) the following entries –

(a)

465/95	The Merchant Shipping (Prevention and Control of Pollution) (Amendment) Regulations 1995	The Whole Regulations
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(b)

160/91		The Whole Regulations
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<sup>9</sup> GC 316/88

<sup>10</sup> GC 132/87

<sup>11</sup> SD 2015/0232

<sup>12</sup> SD 2020/0231

<sup>13</sup> SD 2020/0231

<sup>14</sup> SD 394/91



	The Merchant Shipping (Prevention and Control of Pollution) (Amendment) Regulations 1991	
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(c)

469/90	The Merchant Shipping (Prevention and Control of Pollution) Order 1990	The whole Order
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(d)

316/88	Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulations 1988	The whole Regulations
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(e)

147/87	Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987	The whole Regulations
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(f)

132/87	The Merchant Shipping (Prevention and Control of Pollution) Order 1987	The whole Order
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**MADE 8 APRIL 2020**

**LAURENCE SKELLY**  
*Minister for Enterprise*

### EXPLANATORY NOTE

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

This Order gives effect to Annex II of the International Convention for the Prevention of Pollution from Ships 1973 (MARPOL).

This Order includes all amendments made to MARPOL Annex II up to and including those adopted by the International Maritime Organization (IMO) Resolutions MEPC.270(69), MEPC.314(74) and MEPC.315(74), which come in to force on the dates specified in the definition of MARPOL Annex II in article 3 of this Order.

MARPOL was adopted by the IMO in 1973, and has evolved to include a wide range of measures to prevent marine pollution. MARPOL contains 6 Annexes which include requirements addressing pollution from oil, noxious liquid substances in bulk, harmful substances carried by sea in packaged form, sewage, garbage and air pollution from ships.

MARPOL Annex II regulates the control of pollution by noxious liquid substances in bulk, and applies to all Manx ships wherever they might be and to foreign ships whilst they are in the territorial waters of the Island.

The Order requires ships to be operated, equipped and maintained in accordance with the provisions of MARPOL Annex II as apply in relation to a ship of its description.

In accordance with MARPOL Annex II, regulation 22.1 a ship certified to carry noxious liquid substances operating in polar waters must also comply with the environment related provisions of the introduction and with Chapter 2 of Part II-A of the Polar Code, in addition to any other applicable requirements of MARPOL Annex II (see article 7(5) of this Order).

Carriage of chemicals in bulk is regulated by MARPOL Annex II and Chapter VII of the International Convention for the Safety of Life at Sea 1974 (SOLAS). Both Conventions require chemical tankers built after 1 July 1986 to comply with the IBC Code, which sets out the international standards for the safe carriage in bulk by sea, of dangerous chemicals and noxious liquid substances. The requirement to comply with the IBC Code specified in MARPOL Annex II, regulation 11, is given effect by *regulation 24 of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022 (SD2022/0294)*.

This Order comes into operation on **1 June 2020**.

Further information on compliance with this Order can be found in MSN 067.

Copies of this document and Manx Shipping Notices are obtainable from the Isle of Man Ship Registry, Department for Enterprise, St Georges Court, Upper Church Street, Douglas, Isle of Man, IM1 1EX and can be accessed via the website: <http://www.iomshipregistry.com>

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

This document is marked (*in bold italics*) with amendments made to this Order by-

SD2022/0294 Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022.