

EXPLANATORY MEMORANDUM TO
THE MERCHANT SHIPPING (PREVENTION OF OIL POLLUTION)
REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations implement the revised Annex I (Regulations for the Prevention of Pollution by Oil) to the International Convention for the Prevention of Pollution from Ships (“MARPOL”), made by the International Maritime Organization (IMO). The instrument applies to all United Kingdom ships (with specified exceptions) and to foreign ships while they are in United Kingdom waters. The Regulations establish a survey and certification regime for ships, and prescribe technical requirements relating to the construction and operation of ships and on-board equipment.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and is not expected to be prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 These Regulations implement the revised international regime contained in Annex I (Regulations for the Prevention of Pollution by Oil) to MARPOL. The regime has been amended by subsequent resolutions of the International Maritime Organization (“IMO”) and these Regulations incorporate those amendments. Annex I of MARPOL applies to all ships, subject to certain exceptions. For non-United Kingdom ships, the standards are enforced by way of port state control inspections carried out by the Maritime and Coastguard Agency on behalf of the Secretary of State.
- 4.2 Annex I of MARPOL was previously implemented by the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996 (“the 1996 Regulations”) (S.I. 1996/2154). These Regulations, and those which amend them, are revoked. Other consequential amendments and partial revocations are also made by this instrument.
- 4.3 This instrument makes use of the power in section 306A of the Merchant Shipping Act 1995 to make ambulatory references to international instruments. The effect is that references in the instrument to specific provisions in Annex I of MARPOL, and to associated mandatory Codes, will be to those instruments as amended or replaced from time to time by an agreement of the IMO. This means the Regulations will refer

to updated international technical requirements without the need for further amendment. Such amendments will be publicised in advance of their coming into force date by means of a Parliamentary Statement to both Houses of Parliament and a Marine Guidance Notice.

- 4.4 The use of ambulatory referencing is in its early stages in maritime law, the power having been introduced by the Deregulation Act 2015. The use of ambulatory referencing offers greater legal certainty for industry by ensuring United Kingdom law remains consistent with the requirements which must be satisfied by international shipping. All amendments are negotiated in the IMO with the option for any Contracting State to decline to accept an amendment.
- 4.5 Implementing the amendments to Annex I requires United Kingdom flagged vessels to comply with the latest requirements laid down by the international community, thus enabling them to operate freely throughout the world. As all international vessels coming into United Kingdom waters are also bound by the amendments to Annex I, the United Kingdom coastline and marine environment is further protected from the risk of oil pollution from ships.
- 4.6 There is no EU legislation that transposes MARPOL Annex I as a whole, but the following legislation requires compliance with some aspects of Annex I:
- Regulation (EC) No. 417/2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers;
 - Regulation (EC) No. 1726/2003 amending Regulation (EC) No. 417/2002 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers;
 - Regulation (EC) No. 2172/2004 amending Regulation (EC) No. 417/2002 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is to all United Kingdom ships, whether within United Kingdom waters or anywhere else in the world (subject to specified exceptions). It also applies to non-United Kingdom ships in United Kingdom waters.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 MARPOL Annex I entered into force on 2nd October 1983. Its purpose is to ensure that the majority of oil tankers are safely built and operated and are constructed to reduce the amount of oil spilled in the event of an accident. It focuses on the prevention of pollution by oil from operational measures as well as from accidental discharges. Implementation into United Kingdom law was achieved in 1996.

- 7.2 Annex I applies to all United Kingdom ships, wherever they may be and all other ships within the territorial waters of the United Kingdom. It does not apply to any warship, naval auxiliary or other ship owned or operated by the State and used for the time being on Government, non-commercial service. The amendments transposed into United Kingdom law by this instrument impose new design and construction requirements in order to reduce the risk of incidents involving oil pollution, therefore improving safety at sea and the environment.
- 7.3 The amendments require technical improvements to machinery spaces and ship operation management requirements including, in particular, requirements relating to the strengthening of a ships pump room protection; new design, construction and location of oil fuel tanks; and new software technologies to aid ship stability, oil pollution emergency plans and outflow performance.
- 7.4 As a member of the IMO, the United Kingdom is committed to introducing into national legislation those conventions and treaties to which it is a signatory, of which MARPOL Annex I is one. The United Kingdom therefore has a duty to amend existing legislation to reflect international changes.

Consolidation

- 7.5 This instrument revokes and replaces the 1996 Regulations, re-enacting those parts which are extant. Consolidation is not therefore relevant.

8. Consultation outcome

- 8.1 The Maritime and Coastguard Agency has informally engaged with key players throughout the process of amending Annex II at the IMO. A consultation on the draft Regulations took place between xx and xx.
- 8.2 To be completed following consultation

9. Guidance

- 9.1 Further guidance on implementation to supplement legislation is available in MSN 1643.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses. In practice, ships which are large enough to be subject to Convention requirements are owned by larger entities.

12. Monitoring & review

- 12.1 In line with the obligation in section 28 of the Small Business, Enterprise and Employment Act 2015, the instrument contains a statutory review provision requiring the Secretary of State to carry out a review of the regulatory provision contained in

the instrument, taking into account in particular how the obligations under the Convention and Protocol, as amended, are implemented in other countries which are subject to these obligations, and publish a report before [DATE], and at intervals not exceeding five years thereafter.

13. Contact

- 13.1 Steven Dexter at the Maritime and Coastguard Agency Telephone: 0203 81 72378 or email: steve.dexter@mca.gov.uk can answer any queries regarding the instrument.