Draft Regulations laid before Parliament under paragraph 13(1) of Schedule 8 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2022 No.000

MERCHANT SHIPPING

The Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022

Made - - - - *2022*

Coming into force

DRAFT

CONTENTS

PART 1
Preliminary

1. Citation, commencement and extent
2. Revocations
3. Amendment of Regulations
4. Interpretation
5. Application
6. Ambulatory reference
7. Exemptions
8. Equivalents
9. Approvals

PART 2
Survey and maintenance of bulk carriers

10. Surveys and maintenance of bulk carriers
11. Surveys of certain bulk carriers constructed before 1st July 1999

PART 3
Special requirements for bulk carriers

12. Damage stability requirements applicable to bulk carriers
13. Structural strength of bulk carriers constructed on or after 1st July 1999
14. Structural and other requirements for bulk carriers
15. Information on compliance with the requirements for bulk carriers
16. Solid bulk cargo density declaration
17. Loading instrument

18. Water level detectors
19. Pumping systems
20. Restrictions from sailing with any hold empty

PART 4
Enforcement

21. Offences and penalties
22. Detention
23. Review of the Regulations

SCHEDULE — Revocations

The Secretary of State, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995(**a**), and in exercise of the powers conferred by sections 85(1), (3)(a), (b), (c), (d), (i) and (n), and (5) to (7), 86(1)(a), (b), (c) and (d), 302(1) and 306A of that Act, and with the consent of the Treasury, makes the following Regulations.

In accordance with paragraph 13(1) of Schedule 8 to the European Union (Withdrawal) Act 2018(**b**), a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

PART 1
Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022 and come into force on the 22nd day after the day on which they are made.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Revocations

2. The Regulations listed in the first column of the Table in the Schedule are revoked to the extent specified in the third column of that Table.

Amendment of Regulations

3.—(1) The Merchant Shipping (Cargo Ship Construction) Regulations 1997(**c**) are amended as follows.

(**a**) 1995 c. 21; sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7. Section 85 was amended by the British Overseas Territories Act 2002 (c. 8), section 2(3). Section 306(A) was inserted by the Deregulation Act 2015 (c. 20), section 106. There are other amendments but none is relevant.

(**b**) 2018 c. 16. Paragraph 13 of Schedule 8 was amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1) Schedule 5, paragraph 54(8) and the European Union (Future Relationship) Act 2020 (c. 29) Schedule 6, paragraph 8. There are other amendments but none is relevant.

(**c**) S.I. 1997/1509, amended by S.I. 2004/2151. There are other amending instruments but none is relevant.

DRAFT

(2) In regulation 7 (peak and machinery space bulkheads and stern tubes), in paragraph (3), for "Subject to regulation 12E(4) and (5) of the Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 1999(**a**)" substitute "Subject to the requirements in regulation 13 of Chapter XII in the Annex to the International Convention for the Safety of Life at Sea, 1974(**b**) (availability of pumping systems)".

(3) The Merchant Shipping (Fees) Regulations 2018(**c**) are amended as follows.

(4) In Part 1 of Schedule 1 (fees under the Merchant Shipping Act 1995), in the table in paragraph 5 (fees for inspections, etc.), in Section I (construction and equipment), at the end—

(a) in the first column, insert "The Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022";

(b) in the second column, insert "2022/XXXX";

(c) in the third column, insert "None".

Interpretation

4. In these Regulations—

"breadth" has the same meaning as in the Load Line Convention(**d**);

"bulk carrier" means a ship which is intended primarily to carry solid bulk cargo and constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, including such types as combination carriers and ore carriers, where—

(a) "combination carrier" means a ship designed to carry oil or alternatively solid bulk cargo; and

(b) "ore carrier" means a sea-going single deck ship having two longitudinal bulkheads and a double bottom throughout the cargo region and intended for the carriage of ore cargoes in the centre holds only(**e**);

"bulk carrier of double-side skin construction" means a bulk carrier in which all cargo holds are bounded by a double-side skin other than that described in paragraph (b) in the definition of "bulk carrier of single-side skin construction";

"bulk carrier of single-side skin construction" means a bulk carrier in which—

(a) any part of a cargo hold is bounded by the side shell; or

(b) one or more cargo holds are bounded by a double-side skin, the width of which is——

(i) in bulk carriers constructed before 1st January 2000, less than 760 millimetres; or

(ii) in bulk carriers constructed on or after 1st January 2000 but before 1st July 2006, less than 1,000 millimetres,

the distance being measured perpendicular to the side shell;

(**a**) S.I. 1999/1644, amended by S.I. 2004/2151 and S.I. 2018/1221.

(**b**) Cmnd 7874. The Convention may be obtained in copy from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office (FCDO) treaties database (https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=79786). The Convention was modified by its Protocol of 1978 (Cmnd 8277) (https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=68013), which was replaced and abrogated by the Protocol of 1988 (Cm 5044) (https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=69573) with respect to the parties to the 1988 Protocol. The amendments to the Convention are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the FCDO treaties database (https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/). Hard copies of the Command Papers are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW. The Parliamentary Archives catalogue numbers for the Command Papers are HL/PO/JO/10/11/2031/2878 (Cmnd 7874), HL/PO/JO/10/11/1959/2032 (Cmnd 8277) and HL/PO/JO/10/11/3156/2280 (Cm 5044).

(**c**) S.I. 2018/1104. There are amending instruments which are not relevant.

(**d**) See regulation 3 of Chapter 1 of Annex I to the Load Line Convention. For further information on the Load Line Convention see the footnote to its definition.

(**e**) Further guidance is given in International Maritime Organization (IMO) Resolution MSC.277(85). MSC.277(85) is available from the IMO of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (https://treaties.fco.gov.uk/responsive/app/consolidatedSearch).

DRAFT

"bulk carriers constructed" means bulk carriers the keels of which are laid or which are at a similar stage of construction and for the purposes of this definition "similar stage of construction" means the stage at which—

(a) construction identifiable with a specific ship begins; and

(b) assembly of that ship has commenced, comprising at least 50 gross tons or one per cent of the estimated mass of all structural material, whichever is less;

"Certifying Authority" has the meaning given to it in regulation 4 of the Merchant Shipping (Survey and Certification) Regulations 2015(**a**);

"Chapter II-1" means Chapter II-1 in the Annex to the Convention (construction: structure, subdivisions and stability, machinery and electrical installations)(**b**);

"Chapter VI" means Chapter VI in the Annex to the Convention (carriage of cargoes and oil fuels)(**c**);

"Chapter XII" means Chapter XII in the Annex to the Convention (additional safety measures for bulk carriers)(**d**);

"Convention" means the International Convention for the Safety of Life at Sea, 1974;

"double-side skin" means a configuration where each ship side is constructed by the side shell and a longitudinal bulkhead connecting the double bottom and the deck;

"ESP Code" means the International Code on the Enhanced Programme of Inspections during surveys of Bulk Carriers and Oil Tankers, 2011 (special measures to enhance maritime safety)(**e**);

"gross tons" means gross tonnage determined in accordance with regulation 6 or 12(1) of the Merchant Shipping (Tonnage) Regulations 1997(**f**);

"ISM Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention(**g**);

"length" has the same meaning as in the Load Line Convention(**h**);

"load line" means the line marked on a ship indicating the maximum depth to which a ship may be loaded;

(**a**) S.I. 2015/508. There are amending instruments but none is relevant.

(**b**) Chapter II-1 was revised and replaced by International Maritime Organization (IMO) Resolution MSC.1(45) and has been further amended by IMO Resolutions MSC.6(48) (Cm 3926), MSC.11(55) (Cm 1251), MSC.12(56) (Cm 3848), MSC.13(57), MSC.19(58) (Cm 3845), MSC.26(60), MSC.27(61), MSC.31(63) (Cm 3849), MSC.47(66) (Cm 4046), MSC.57(67), MSC.65(68), MSC.69(69) (Cm 5771), MSC.99(73) (Cm 6001), MSC.134(76) (Cm 6587), MSC.151(78), MSC.170(79), MSC.194(80), MSC.216(82), MSC.256(84), MSC.269(85), MSC.282(86), MSC.290(87), MSC.291(87), MSC.308(88), MSC.325(90), MSC.338(91), MSC.365(93), MSC.392(95), MSC.409(97), MSC.421(98), MSC.429(98) and MSC.436(99). The amendments to Chapter II-1 are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (https://treaties.fco.gov.uk/responsive/app/consolidatedSearch). See the footnote to the Convention for further information on the Convention.

(**c**) Chapter VI in the Annex to the Convention was revised and replaced by International Maritime Organization (IMO) Resolution A.264(VIII) and has been further amended by IMO Resolutions MSC.23(59), MSC.47(66), MSC.69(69) (Cm 5771), MSC.123(75) (Cm 6587), MSC.193(79), MSC.194(80), MSC.239(83), MSC.268(85), MSC.269(85), MSC.282(86), MSC.318(89), MSC.325(90), MSC.354(92), MSC.380(94), MSC.393(95), MSC.426(98) and MSC.462(101). The amendments to Chapter VI are available from the IMO of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (https://treaties.fco.gov.uk/responsive/app/consolidatedSearch). See the footnote to the Convention for further information on the Convention.

(**d**) Chapter XII was revised and replaced by International Maritime Organization (IMO) Resolution MSC.170(79) (CP 262) and has been amended by MSC.216(82) (CM 9698). The amendments to Chapter XII are available from the IMO of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (https://treaties.fco.gov.uk/responsive/app/consolidatedSearch). See the footnote to the Convention for further information on the Convention.

(**e**) The ESP Code is made mandatory by regulation 2 of Chapter XI-1 in the Annex to the Convention (special measures to enhance maritime safety). It was adopted by IMO Resolution A.1049(27) and amended by IMO Resolutions MSC.371(93), MSC.381(94), MSC.405(96), MSC.412(97) and MSC.461(101).

(**f**) S.I. 1997/1510, amended by S.I. 2020/362. There are other amendments but none is relevant to these Regulations.

(**g**) The International Safety Management (ISM) Code was adopted by the IMO in Resolution A.741(18) and made mandatory by regulation 3 of Chapter IX in the Annex to the Convention. It was amended by IMO Resolutions MSC.104(73) (Cm 8063), MSC.179(79), MSC.195(80), MSC.273(85) and MSC.353(92).

(**h**) See regulation 3 of Chapter 1 of Annex I to the Load Line Convention. For further information on the Load Line Convention see the footnote to its definition.

DRAFT

"Load Line Convention" means the International Convention on Load Lines 1966(**a**);

"Merchant Shipping Notice" means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport) and includes a reference to any document amending or replacing that notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

"sea-going" means operating outside Category A, B, C or D waters and for the purposes of this definition "Category A, B, C or D waters" means the waters specified as such in Merchant Shipping Notice 1837(M) Amendment 2(**b**);

"shipper" means any person who, whether as principal or agent for another, consigns goods for carriage by sea;

"solid bulk cargo" means any material, other than liquid or gas, consisting of a combination of particles, granules or any larger pieces of material, generally uniform in composition, which is loaded directly into the cargo spaces of a ship without any intermediate form of containment;

"summer load line" means the upper edge of the load line marked on a ship, indicated by the upper edge of that line which passes through the centre of the load line mark and also by a line marked "S", and "load line mark" means a ring with a width of 25 millimetres and an outer diameter of 300 millimetres and a horizontal line with a width of 25 millimetres and a length of 450 millimetres, the upper edge of which bisects the ring, and both of which are placed on the side of a ship at amidships port and starboard;

"United Kingdom bulk carrier" means a bulk carrier that is a United Kingdom ship.

Application

5.—(1) Subject to paragraph (2), these Regulations apply to sea-going bulk carriers of 500 gross tons or over which are—

(a) United Kingdom bulk carriers, wherever they may be; or

(b) non-United Kingdom bulk carriers, while they are within United Kingdom waters.

(2) A non-United Kingdom bulk carrier flying the flag of a State which is not a party to the Convention is not subject to these Regulations if it would not have been in United Kingdom waters but for stress of weather or any other circumstances which the master, owner or charterer could not have prevented.

(3) Where persons are on board a bulk carrier as a consequence of—

(a) the circumstances described in paragraph (2); or

(b) an obligation laid upon the master to carry shipwrecked or other persons(**c**),

those persons are not to be taken into account for the purpose of determining the application to that bulk carrier of any provision of these Regulations.

(**a**) Cmnd. 3708. The Convention was amended by IMO Resolutions A.972(24), A.1082(28) and A.1083(28) and by its Protocol of 1988 (Cmnd. 4829). The Protocol was amended by IMO Resolutions MSC.143(77) (Cm 9698), MSC.172(79), MSC.223(82), MSC.270(85), MSC.329(90), MSC.345(91), MSC.356(92) and MSC.375(93), which are contained in CM 9698 and found at https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=70223. The Convention and the Protocol of 1988 may be obtained in copy from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office (FCDO) treaties database. On the database, the Convention is located at https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=66633 and the Protocol is located at https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=69527. The text of the amendments to the Convention and the Protocol may be obtained from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the FCDO treaties database at https://treaties.fco.gov.uk/responsive/app/consolidatedSearch.

(**b**) Merchant Shipping Notice 1837(M) Amendment 2, published 9th October 2017, is available on https://www.gov.uk/government/publications/msn-1837-m-amendment-2-categorisation-of-waters, and in hard copy from the Maritime and Coastguard Agency of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mcga.gov.uk).

(**c**) Regulation 33 in Chapter V of the Convention (safety of navigation) places an obligation on the master to provide assistance to persons in distress at sea and this obligation is implemented in the Merchant Shipping (Safety of Navigation) Regulations 2020 (S.I. 2020/673).

DRAFT

Ambulatory reference

6.—(1) In these Regulations, any reference to an instrument referred to in paragraph (2) is to be construed—

(a) as a reference to that instrument as modified from time to time; and

(b) as, if that instrument is replaced, a reference to the replacement.

(2) The instruments are—

(a) Chapter II-1;

(b) Chapter VI;

(c) Chapter XII;

(d) the ESP Code;

(e) the ISM Code; and

(f) the Load Line Convention.

(3) For the purposes of paragraph (1)—

(a) an instrument referred to in sub-paragraphs (a) to (e) of paragraph (2) is modified or replaced if the modification or replacement takes effect in accordance with Article VIII of the Convention; and

(b) the Load Line Convention is modified or replaced if the modification or replacement takes effect in accordance with paragraph (4) of Article 28 of the Load Line Convention or Article VI of the Protocol of 1988(**a**) to the Load Line Convention.

(4) A modification or replacement of an instrument referred to in sub-paragraphs (a) to (e) of paragraph (2) has effect at the time such modification or replacement comes into force in accordance with Article VIII of the Convention.

(5) A modification or replacement of the Load Line Convention has effect at the time such modification or replacement comes into force in accordance with paragraph (4) of Article 28 of the Load Line Convention or Article VI of the Protocol of 1988 to the Load Line Convention.

Exemptions

7.—(1) The Secretary of State may exempt from any provision of these Regulations or of Chapter XII, a bulk carrier which does not normally engage on international voyages but is, in exceptional circumstances, required to undertake a single international voyage.

(2) The Secretary of State may exempt a bulk carrier to which regulation 12(4) (damage stability requirements for bulk carriers constructed before 1st July 1999) applies from the requirements of that provision and of regulation 14 (structural and other requirements for bulk carriers), where that bulk carrier—

(a) has been constructed with an insufficient number of transverse watertight bulkheads to satisfy the requirements of that provision; and

(b) complies with the requirements in paragraph (3).

(3) The requirements are that—

(a) for the foremost cargo hold, the inspections prescribed for the annual survey in the enhanced programme of inspections during surveys required by the ESP Code are replaced with inspections prescribed by the ESP Code for the intermediate survey of cargo holds;

(b) the bulk carrier is provided with bilge well high water level alarms in all cargo holds, or in cargo conveyor tunnels, as appropriate, giving an audible and visual alarm on the navigation bridge, as approved by the Certifying Authority;

(**a**) Cmnd. 4829. Further information on the Protocol of 1988 is given in the footnote to the Load Line Convention.

DRAFT

(c) detailed information is carried on the bulk carrier about specific cargo hold flooding scenarios, accompanied by detailed instructions on evacuation preparedness in accordance with section 8 of the ISM Code, to be used as the basis for crew training and drills.

(4) The Secretary of State may, in exceptional circumstances not provided for in paragraphs (1) and (2), exempt from any of the provisions of these Regulations or of Chapter XII, a bulk carrier if satisfied that compliance with such provision is either impracticable or unreasonable in the case of that bulk carrier.

(5) An exemption under paragraph (1), (2) or (4) or an approval under paragraph (3)(b), may be granted subject to such safety requirements as the Secretary of State thinks fit to ensure the overall safety of the bulk carrier.

(6) An exemption granted under paragraph (1), (2) or (4) or an approval under paragraph (3)(b), may, on the giving of reasonable notice, be altered or cancelled.

(7) An exemption granted under paragraph (1), (2) or (4), an approval under paragraph (3)(b) or an alteration or cancellation under paragraph (6), must—

(a) be in writing;

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

(c) specify the terms, if any, on which it is given.

(8) The requirement that an exemption granted under paragraph (1), (2) or (4), an approval under paragraph (3)(b) or an alteration or cancellation under paragraph (6), be in writing is satisfied where the text of the exemption, approval, alteration or cancellation is—

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

(9) Where an exemption under paragraph (1), (2) or (4) is granted subject to safety requirements under paragraph (5), the exemption ceases to have effect if those requirements are not complied with.

(10) In this regulation—

"international voyage" means a voyage between—

(a) a port in the United Kingdom and a port outside the United Kingdom; or

(b) a port in a Convention country (other than the United Kingdom) and a port in any other country or territory (whether a Convention country or not) which is outside the United Kingdom,

and, for the purposes of paragraph (b), "Convention country" means a country or territory which is either a country the Government of which is party to the Convention or a territory to which the Convention extends whether or not it is subject to the amendments to, or reservations in respect of, the Convention;

"watertight" has the same meaning as in Chapter II-1(**a**).

Equivalents

8.—(1) Where these Regulations or Chapter XII require that—

(a) the hull or machinery of a bulk carrier must be constructed in a particular manner;

(b) a particular fitting, material, appliance or apparatus, or a type of fitting, material, appliance or apparatus be fitted on, or carried in, a bulk carrier; or

(c) any other particular arrangement or provision be made in relation to a bulk carrier,

(**a**) See regulation 2 of Chapter II-1.

DRAFT

the Secretary of State may approve the hull or machinery of the bulk carrier to be constructed in any other manner, or any other fitting, material, appliance, apparatus, arrangement or other provision if satisfied that it is at least as effective as that required by these Regulations or by Chapter XII, as the case may be.

(2) An approval given under paragraph (1) may, on the giving of reasonable notice, be continued, altered or cancelled.

(3) Any approval given under paragraph (1), or a continuation, alteration or cancellation under paragraph (2), must—

(a) be in writing;

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

(c) specify the terms, if any, on which it is given.

(4) The requirement that the approval referred to in paragraph (1), or a continuation, alteration or cancellation under paragraph (2), be in writing is satisfied where the text of the approval, continuation, alteration or cancellation is—

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

Approvals

9.—(1) Unless approved under the Merchant Shipping (Marine Equipment) Regulations 2016(**a**), any equipment required by these Regulations or Chapter XII and placed on board a United Kingdom bulk carrier must be approved by the Secretary of State, or any person authorised by the Secretary of State.

(2) An approval given under paragraph (1) may, on the giving of reasonable notice, be continued, altered or cancelled.

(3) Any approval given under paragraph (1), or a continuation, alteration or cancellation under paragraph (2), must—

(a) be in writing;

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

(c) specify the terms, if any, on which it is given.

(4) The requirement that the approval referred to in paragraph (1) or a continuation, alteration or cancellation under paragraph (2), be in writing is satisfied where the text of the approval, continuation, alteration or cancellation is—

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

DRAFT

(**a**) S.I. 2016/1025, amended by S.I. 2019/470, S.I. 2019/1304 and S.I. 2020/1000.

PART 2

Survey and maintenance of bulk carriers

Surveys and maintenance of bulk carriers

10.—(1) A bulk carrier must be subjected to the enhanced programme of inspections required by the ESP Code during a survey required by the Merchant Shipping (Survey and Certification) Regulations 2015.

(2) A bulk carrier must comply with—

(a) the maintenance requirements contained in regulation 3-1 of Chapter II-1 (structural, mechanical and electrical requirements for ships); and

(b) the standards for owners, inspection and maintenance of bulk carrier hatch covers specified in regulation 7 of Chapter XII(**a**) (and contained in IMO Resolution MSC.169(79)).

Surveys of certain bulk carriers constructed before 1st July 1999

11.—(1) Bulk carriers constructed before 1st July 1999 of—

(a) 150 metres or more in length; and

(b) single-side skin construction,

must not carry solid bulk cargo having a density of 1,780 kg/m3 or above unless one of the requirements in paragraph (2) is complied with.

(2) The requirements are that the bulk carrier is subjected to—

(a) an intermediate or renewal survey carried out under the Merchant Shipping (Survey and Certification) Regulations 2015 and conducted in accordance with the enhanced programme of inspections required by the ESP Code; or

(b) a survey only of all cargo holds, which is carried out to the same extent as in a survey mentioned in paragraph (a).

PART 3

Special requirements for bulk carriers

Damage stability requirements applicable to bulk carriers

12.—(1) This regulation applies to bulk carriers of 150 metres in length or more.

(2) A bulk carrier of single-side skin construction to which this regulation applies—

(a) constructed on or after 1st July 1999; and

(b) designed to carry solid bulk cargo having a density of 1,000 kg/m3 and above,

must comply with each requirement applicable to that bulk carrier in regulation 4 of Chapter XII (damage stability requirements applicable to bulk carriers).

(3) A bulk carrier of double-side skin construction to which this regulation applies—

(a) constructed on or after 1st July 2006;

(**a**) Regulation 7 of Chapter XII requires compliance with the standards for owners, inspection and maintenance of bulk carrier hatch covers, set out in IMO Resolution MSC.169(79). MSC.169(79) was adopted by the Maritime Safety Committee of the IMO on 9th December 2004 for the purposes of the application of regulation 7 of Chapter XII. As such, its requirements are made mandatory by reference to it in regulation 7 of Chapter XII.

DRAFT

(b) in which any part of a longitudinal bulkhead is located within one-fifth of the vessel breadth or 11.5 metres, whichever is less, inboard from the ship's side at a right angle to the centreline at the assigned summer load line; and

(c) designed to carry solid bulk cargo having a density of 1,000 kg/m3 and above,

must comply with each requirement applicable to that bulk carrier in regulation 4 of Chapter XII.

(4) A bulk carrier of single-side skin construction to which this regulation applies—

(a) constructed before 1st July 1999; and

(b) designed to carry solid bulk cargo having a density of 1,780 kg/m3 and above,

must comply with each requirement applicable to that bulk carrier in regulation 4 of Chapter XII.

Structural strength of bulk carriers constructed on or after 1st July 1999

13.—(1) This regulation applies to bulk carriers of 150 metres in length or more.

(2) A bulk carrier of single-side skin construction to which this regulation applies—

(a) constructed on or after 1st July 1999; and

(b) designed to carry solid bulk cargo having a density of 1,000 kg/m3 and above,

must comply with each requirement applicable to that bulk carrier in regulation 5 of Chapter XII (structural strength of bulk carriers).

(3) A bulk carrier of double-side skin construction to which this regulation applies—

(a) constructed on or after 1st July 2006;

(b) in which any part of a longitudinal bulkhead is located within one-fifth of the vessel breadth or 11.5 metres, whichever is less, inboard from the ship's side at a right angle to the centreline at the assigned summer load line; and

(c) designed to carry solid bulk cargo having a density of 1,000 kg/m3 and above,

must comply with each requirement applicable to that bulk carrier in regulation 5 of Chapter XII.

Structural and other requirements for bulk carriers

14.—(1) This regulation applies to bulk carriers of 150 metres in length or more.

(2) A bulk carrier of single-side skin construction to which this regulation applies—

(a) constructed before 1st July 1999; and

(b) designed to carry solid bulk cargo having a density of 1,780 kg/m3 and above,

must comply with each requirement applicable to that bulk carrier in regulation 6 of Chapter XII (structural and other requirements for bulk carriers).

(3) A bulk carrier to which this regulation applies constructed on or after 1st July 2006, must comply with the requirements in paragraphs 2 and 3 of regulation 6 of Chapter XII in all areas of the vessel with double-side skin construction.

(4) A bulk carrier to which this regulation applies constructed on or after 1st July 2006 and designed to carry solid bulk cargo having a density of 1,000 kg/m3 and above, must comply with each requirement applicable to that bulk carrier in paragraph 4 of regulation 6 of Chapter XII.

Information on compliance with the requirements for bulk carriers

15.—(1) In the case of a United Kingdom bulk carrier to which the provisions in these Regulations referred to in paragraph (2) apply, the booklet required by regulation 7.2 of Chapter VI (loading, unloading and stowage of solid bulk cargo) must be endorsed by the Certifying Authority to confirm that each requirement that applies to that bulk carrier has been complied with.

(2) The provisions are—

(a) regulations 10 and 11 (surveys);

DRAFT

(b) regulation 12 (damage stability requirements applicable to bulk carriers);

(c) regulation 13 (structural strength of bulk carriers constructed on or after 1st July 1999); and

(d) regulation 14 (structural and other requirements for bulk carriers).

(3) Any restrictions imposed on the carriage of solid bulk cargo having a density of 1,780 kg/m3 and above in accordance with the requirements of regulation 14 and regulation 20 (restrictions from sailing with any hold empty) must be identified and recorded in the booklet referred to in paragraph (1).

(4) A bulk carrier to which the restrictions described in paragraph (3) apply must be permanently marked in accordance with regulation 8.3 of Chapter XII (permanent marking with solid equilateral triangle).

Solid bulk cargo density declaration

16.—(1) Prior to loading solid bulk cargo on bulk carriers of 150 metres in length or more, the shipper must—

(a) declare the density of the cargo in writing; and

(b) provide that information to the master or to the master's representative.

(2) A bulk carrier to which regulation 14 (structural and other requirements for bulk carriers) applies and which is carrying cargo with a declared cargo density within the range of 1,250 kg/m3 to 1,780 kg/m3 inclusive, must either—

(a) have the density of the cargo verified by an accredited testing organisation(**a**); or

(b) comply with all the requirements of these Regulations applicable to the carriage of solid bulk cargo having a density of 1,780 kg/m3 and above.

Loading instrument

17.—(1) A bulk carrier of 150 metres in length or more must be fitted with a loading instrument in accordance with regulation 11.1 of Chapter XII (loading instrument for bulk carriers of 150 metres or more in length).

(2) A bulk carrier of less than 150 metres in length constructed on or after 1st July 2006 must be fitted with a loading instrument in accordance with regulation 11.3 of Chapter XII (loading instrument for bulk carriers of less than 150 metres in length constructed on or after 1st July 2006).

Water level detectors

18. A bulk carrier must be fitted with a water level detector in accordance with regulation 12 of Chapter XII (hold, ballast and dry space water ingress alarms).

Pumping systems

19. The arrangements for draining and pumping in a bulk carrier must comply with regulation 13 of Chapter XII (availability of pumping systems).

(**a**) IMO Circular MSC/Circ.908 provides guidelines for the verification of the density of solid bulk cargo and may be obtained from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or from the Maritime and Coastguard Agency of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mcga.gov.uk). It is government policy to recommend the use of testing organisations accredited by the United Kingdom Accreditation Service (UKAS) – see https://www.ukas.com/about-us/about-ukas/.

DRAFT

Restrictions from sailing with any hold empty

20.—(1) This regulation applies to a bulk carrier of single-side skin construction of 150 metres or more in length carrying cargo having a density of 1,780 kg/m3 and above which does not comply with—

(a) the requirements for withstanding flooding of any one cargo hold as specified in regulation 5.1 of Chapter XII (structural strength of certain bulk carriers with single-side skin construction); and

(b) the standards and criteria for side structures of bulk carriers of single-side skin construction referred to in regulation 14 of Chapter XII (restrictions from sailing with any hold empty) (and contained in IMO Resolution MSC.168(79))(**a**).

(2) A bulk carrier to which this regulation applies must not sail with any hold loaded to less than 10 per cent of the hold's maximum allowable cargo weight when in the full load condition, after reaching 10 years of age.

(3) For the purposes of this regulation, "the full load condition" means a load equal to or greater than 90 per cent of the ship's deadweight at the freeboard assigned—

(a) in the case of a United Kingdom bulk carrier, under the Merchant Shipping (International Load Line Convention) (Amendment) Regulations 2018(**b**) or the Merchant Shipping (Load Line) Regulations 1998(**c**), as the case may be;

(b) in the case of a non-United Kingdom bulk carrier flying the flag of a country which is a party to the Load Line Convention, in accordance with that Convention; or

(c) in the case of a non-United Kingdom bulk carrier flying the flag of a State which is not a party to the Load Line Convention, in accordance with the requirements of that State,

and "deadweight" means the bulk carrier's carrying capacity and "freeboard" means the distance measured vertically downwards at amidships from the upper edge of the deck-line to the upper edge of the related load line.

PART 4

Enforcement

Offences and penalties

21.—(1) If a bulk carrier proceeds or attempts to proceed to sea or on any voyage, or arrives within United Kingdom waters, in breach of the requirements of—

(a) regulation 10(1) or (2) (surveys and maintenance of bulk carriers);

(b) regulation 11(1) (surveys of certain bulk carriers constructed before 1st July 1999);

(c) regulation 12(2), (3) or (4) (damage stability requirements applicable to bulk carriers);

(d) regulation 13(2) or (3) (structural strength of bulk carriers constructed on or after 1st July 1999);

(e) regulation 14(2), (3) or (4) (structural and other requirements for bulk carriers);

(f) regulation 15(3) or (4) (information on compliance with the requirements for bulk carriers);

(**a**) IMO Resolution MSC.168(79) contains the standards and criteria for side structures of bulk carriers of single-side skin construction. MSC.168(79) was adopted by the Maritime Safety Committee of the IMO on 9th December 2004 for the purposes of the application of regulation 14 of Chapter XII and is made mandatory by reference to it in regulation 14 of Chapter XII.

(**b**) S.I. 2018/155. These Regulations apply to United Kingdom ships and to non-United Kingdom ships in United Kingdom waters constructed on or after 21st July 1968, of 24 metres or more in length and engaged on international voyages, with limited exceptions. Freeboards are assigned under regulation 3 of the Regulations.

(**c**) S.I. 1998/2241, amended by S.I. 2000/1335, S.I. 2011/603 and S.I. 2018/155. These Regulations apply to all ships to which S.I. 2018/155 does not apply, with limited exceptions. Freeboards are assigned under regulation 7 of the Regulations.

DRAFT

(g) regulation 17(1) or (2) (loading instrument);

(h) regulation 18 (water level detectors);

(i) regulation 19 (pumping systems);

(j) regulation 20(2) (restrictions from sailing with any hold empty),

applicable to that bulk carrier, the owner and the master are each guilty of an offence in respect of each case of non-compliance.

(2) If a bulk carrier to which regulation 16 (solid bulk cargo density declaration) applies is loaded with bulk cargo without complying with the requirements of regulation 16(1) or (2), the shipper is guilty of an offence in respect of each case of non-compliance.

(3) An offence under paragraph (1) or (2) is punishable—

(a) on summary conviction—

(i) in England and Wales by a fine; or

(ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or

(b) on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

Detention

22.—(1) For the purposes of this regulation, any reference to "the Act" is a reference to the Merchant Shipping Act 1995.

(2) Any bulk carrier which does not comply with the requirements of these Regulations or Chapter XII applicable to that bulk carrier, may be detained in the United Kingdom.

(3) Section 284 of the Act (enforcing detention of ship)(**a**) applies where a bulk carrier is liable to be detained under this regulation as if—

(a) references to detention of a ship under the Act were references to detention of the bulk carrier in question under this regulation; and

(b) subsection (7) were omitted.

(4) Where a bulk carrier is liable to be detained under this regulation, the person detaining the bulk carrier must serve on the master a detention notice which—

(a) states the grounds for the detention; and

(b) requires the terms of the notice to be complied with until the bulk carrier is released by any person mentioned in section 284(1) of the Act.

(5) Subject to paragraph (6), section 96 (references of detention notices to arbitration)(**b**) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 of the Act (power to detain dangerously unsafe ship)(**c**).

(6) For the purposes of paragraph (5)—

(a) section 96 of the Act applies as if—

(i) subsection (3) were omitted;

(ii) the words "as a dangerously unsafe ship" in subsection (5) were omitted;

(iii) subsection (11) were omitted; and

(**a**) Section 284 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28) and S.I. 2015/664.

(**b**) Section 96(7) was amended by Part 1 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) and by Schedule 11 to the Constitutional Reform Act 2005 (c. 4). Section 96(10) was repealed by Schedule 4 to the Arbitration Act 1996 (c. 23).

(**c**) Section 95 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28).

DRAFT

(b) sections 96 and 97 of the Act apply as if "the relevant inspector" means a person issuing the detention notice pursuant to this regulation.

(7) Subject to paragraph (8), where a non-United Kingdom bulk carrier is detained, the Secretary of State must immediately inform the bulk carrier's flag administration in writing.

(8) If it is not possible to inform the bulk carrier's flag administration in accordance with paragraph (7), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

(9) For the purposes of paragraphs (7) and (8), "flag administration" in relation to a bulk carrier means the administration of the State whose flag the bulk carrier is entitled to fly.

Review of the Regulations

23.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations; and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before [DATE].

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(**a**) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Convention are implemented in other countries which are subject to the obligations.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

Name
Parliamentary Under Secretary of State
Department for Transport

Date

We consent to the making of these Regulations

Name
Name
Two of the Lords Commissioners of Her Majesty's Treasury

Date

(**a**) 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12) and Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).

DRAFT

SCHEDULE

Regulation 2

Revocations

Regulations revoked	*References*	*Extent of revocation*
The Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 1999	S.I. 1999/1644	The whole Regulations
The Merchant Shipping (Additional Safety Measures for Bulk Carriers) (Amendment) Regulations 2004	S.I. 2004/2151	The whole Regulations
The Merchant Shipping (Miscellaneous Provisions) (Amendments etc.) (EU Exit) Regulations 2018	S.I. 2018/1221	Regulation 3(2)(g) and paragraph 12 in the Schedule

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement amendments to Chapter XII of the International Convention for the Safety of Life at Sea, 1974 ("the Convention") relating to additional safety measures for bulk carriers and apply to all bulk carriers of 500 gross tons or more; that is, United Kingdom bulk carriers wherever they are in the world and foreign flagged bulk carriers while they are in United Kingdom waters. They also make provision in respect of bulk carriers to which the Convention does not apply. The Regulations contain particular requirements for bulk carriers that are additional to the requirements in other merchant shipping legislation implementing the Convention, and with which bulk carriers must also comply.

The Regulations revoke and replace the Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 1999 (S.I. 1999/1644) ("the 1999 Regulations") and revoke the Merchant Shipping (Additional Safety Measures for Bulk Carriers) (Amendment) Regulations 2004 (S.I. 2004/2151), which amend the 1999 Regulations. The Regulations also make partial revocations to the Merchant Shipping (Miscellaneous Provisions) (Amendments etc.) (EU Exit) Regulations 2018 (S.I. 2018/1221).

All future amendments to the provisions of Chapter XII, the International Code on the Enhanced Programme of Inspections during surveys of Bulk Carriers and Oil Tankers 2011 and the International Management Code for the Safe Operation of Ships and for Pollution Prevention referred to in these Regulations will be automatically incorporated into UK law by virtue of the ambulatory reference provision in regulation 6. Amendments to provisions of Chapter II-1 of the Convention referred to in regulations 10 and 11 of the Regulations will be similarly incorporated.

The Regulations provide for the granting of exemptions (regulation 7), the approval of equivalents (regulation 8) and the approval of equipment (regulation 9).

Part 2 of the Regulations makes provision for surveys of bulk carriers, in respect of which there are particular requirements.

The special requirements applicable to bulk carriers are prescribed in Part 3 of the Regulations and relate to damage stability requirements (regulation 12), the structural strength of bulk carriers constructed on or after 1st July 1999 (regulation 13), structural and other requirements for bulk carriers (regulation 14), information on compliance with the requirements for bulk carriers (regulation 15), the solid bulk cargo density declaration (regulation 16), the loading instrument (regulation 17), water level detectors (regulation 18), pumping systems (regulation 19) and restrictions from sailing with any hold empty (regulation 20).

DRAFT

The Regulations also provide for contravention of the various requirements in Parts 2 and 3 to be offences and subject to criminal penalties (regulation 21). In cases of non-compliance with the requirements of the Regulations or Chapter XII, a bulk carrier may be detained (regulation 22).

Regulation 23 requires the Secretary of State to review the operation and effect of these Regulations and publish a report before [ ] and at intervals not exceeding five years after that. Following a review, it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be amended or revoked. A further instrument would be needed to amend or revoke the Regulations.

The Convention and its Protocol of 1988 may be obtained in copy from the International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR and both are available on the Foreign, Commonwealth and Development Office (FCDO) treaties database (https://treaties.fco.gov.uk/responsive/app/consolidatedSearch). The text of the IMO Resolutions amending the Convention and Protocol may be obtained from the IMO or can be found on the FCO treaties database (https://treaties.fco.gov.uk/responsive/app/consolidatedSearch).

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

A full impact assessment has not been produced for this instrument as the Regulations relate to the updating and maintenance of existing regulatory standards and no, or no significant, impact on the private, voluntary or public sector is foreseen.

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

DRAFT