



BERMUDA

MERCHANT SHIPPING (PREVENTION OF POLLUTION BY SEWAGE AND  
GARBAGE FROM SHIPS) AMENDMENT REGULATIONS 2019

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The Minister responsible for Maritime Administration, in exercise of the powers conferred by section 122 of the Merchant Shipping Act 2002, makes the following Regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Amendment Regulations 2019.

Amends Regulation 2

2 Regulation 2 of the Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2015 (in these Regulations referred to as “the principal Regulations”) is amended—

(a) in paragraph 1—

(i) by deleting the definition of “the 1995 Regulations”;

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- (ii) by deleting the definition of “Annex IV” and substituting the following definition—

“ “Annex IV” means Annex IV to the Convention, being the Annex IV adopted by the Marine Environment Protection Committee of the IMO by resolution MEPC.115(51) on 1st April 2004, and includes—

- (a) all the amendments to that Annex adopted by the Marine Environment Protection Committee of the IMO before the date on which these Regulations are made; and
- (b) any subsequent amendment to that Annex which is considered by the Minister to be relevant from time to time to include—
- (i) MEPC.265(68); (to make use of environment-related provisions of the Polar Code mandatory);
- (ii) MEPC.274(69); (Baltic Sea Special Area and form of ISPP Certificate);
- (iii) MEPC.275(69); (Establishment of the date on which Regulation 11.3 of MARPOL Annex IV in respect of the Baltic Sea Special Area shall take effect); and
- (iv) MEPC.284(70); (Amendments to the 2012 guidelines on implementation of effluent standards and performance tests for sewage treatment plants);”;

- (iii) by deleting the definition of “Annex V” and substituting the following definition—

“ “Annex V” means Annex V to the Convention, being the Annex V constituting part of attachment 1 to the final act of the International Conference on Maritime Pollution signed in London on 2nd November 1973, and includes—

- (a) all the amendments to that Annex adopted by the Marine Environment Protection Committee of the IMO before the date on which these Regulations are made; and
- (b) any subsequent amendment to that Annex which is considered by the Minister to be relevant from time to time to include—
- (i) MEPC.265(68) (To make use of environment-related provisions of the Polar Code mandatory); and
- (ii) MEPC.277(70) (HME substances and Form of Garbage Record Book);”;

- (iv) by deleting the definition of “Certifying Authority” and substituting the following definition—

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“Certifying Authority” means the Minister or an organisation which has an agreement with the Minister on common rules and standards for ship inspection and for the relevant activities of maritime administration;”;

(v) by deleting the definition of “EC Regulation”;

(vi) by deleting the definition of “MCA”;

(vii) by deleting the definition of “Merchant Shipping Notice” and substituting the following definition—

“Merchant Shipping Notice” means a Notice described as such and issued by the Chief Marine Surveyor or the equivalent UK Merchant Shipping Notice, as applicable;”;

(viii) by inserting the following definitions in their proper alphabetical positions—

“Arctic waters” means those waters which are located north of a line from the latitude 58°00'.0 N and longitude 042°00'.0 W to latitude 64°37'.0 N, longitude 035°27'.0 W and thence by a rhumb line to latitude 67°03'.9 N, longitude 026°33'.4 W and thence by a rhumb line to the latitude 70°49'.56 N and longitude 008°59'.61 W (Sørkapp, Jan Mayen) and by the southern shore of Jan Mayen to 73°31'.6 N and 019°01'.0 E by the Island of Bjørnøya, and thence by a great circle line to the latitude 68°38'.29 N and longitude 043°23'.08 E (Cap Kanin Nos) and hence by the northern shore of the Asian Continent eastward to the Bering Strait and thence from the Bering Strait westward to latitude 60° N as far as Il'pyrskiy and following the 60th North parallel eastward as far as and including Etolin Strait and thence by the northern shore of the North American continent as far south as latitude 60° N and thence eastward along parallel of latitude 60° N, to longitude 056°37'.1 W and thence to the latitude 58°00'.0 N, longitude 042°00'.0 W;

“MEPC” means the IMO Marine Environment Pollution Committee;

“Polar Code” means the International code for ships operating in polar waters, consisting of an introduction, part I-A and parts I-B, as adopted by resolutions MSC.385(94) and MEPC.264(68);

“Polar waters” means Arctic waters or Antarctic waters or both;”;

(b) by deleting paragraph (5) and substituting the following paragraph—

“(5) For the purposes of these Regulations, “Bermuda ship” means a ship as defined in section 16(3) of the Merchant Shipping Act 2002.”.

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Substitutes Regulation 5

3 Regulation 5 of the principal Regulations is revoked and the following Regulation is substituted—

“Ambulatory reference

5 (1) In these Regulations, any reference to Annex is to be construed—

- (a) as a reference to that Annex as modified from time to time; and
- (b) if that Annex is replaced by another instrument, as a reference to that instrument.

(2) For the purposes of paragraph (1), Annex IV or VI are modified if omissions, additions or other alterations to the text take effect in accordance with Article 16 of the Convention (supplementary provisions made under Article 16 of the Convention).

(3) A modification to or a replacement of Annex IV or VI by virtue of paragraph (1) has effect at the time such modification or replacement comes into force in accordance with Article 16(2)(f) and (g) of the Convention.

(4) No modification or replacement of a reference to an Annex by virtue of paragraph (1) affects any right or liability arising before the date on which the modification or replacement has effect.”.

Amends Regulation 6

4 Regulation 6 of the principal Regulations is amended by deleting the words “and 18(1) and (2)” and substituting the words “18(1) and (2) and 31A”.

Amends Regulation 22

5 Regulation 22 of the principal Regulations is amended in paragraph (2) by deleting “MCA” and substituting “Chief Marine Surveyor”.

Inserts Part VA

6 The principal Regulations are amended by inserting the following Part next after Part V—

“PART VA

Polar Code

31A (1) This Regulation applies to a Bermuda ship operating in polar waters.

(2) The owner or master of a ship to which this Regulation applies must ensure that the construction and operation of the ship, in addition to any other applicable requirements of Annex IV and Annex V, complies with the following provisions of the Polar Code—

- (a) the environment related provisions of the introduction;

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(b) chapter 4 of Part II-A (prevention of pollution by sewage from ships); and

(c) chapter 5 of Part II-A (prevention of pollution by garbage from ships).

(3) In ensuring compliance with paragraphs (2)(b) and (2)(c), consideration must be given to the guidance in Part II-B of the Polar Code.”.

Substitutes Regulation 41

7 Regulation 41 of the principal Regulations is revoked and the following Regulation is substituted—

“Right of appeal and compensation

41 Regulation 14 of the Merchant Shipping (Port State Control) Regulations 2019 (right of appeal and compensation) applies in relation to the exercise of the power of detention under these Regulations as they apply in relation to the exercise of that power under those Regulations, subject to the modification that, references to “inspector” are to be taken as references to the authority detaining the ship, or the harbour master, as the case may be.”.

Amends Regulation 42

8 Regulation 42 of the principal Regulations is amended in paragraph (1)(f) by deleting the words “or 29” and substituting “29 or 31A(2)”.

Made this 16th day of October 2019

Minister of Tourism and Transport

[Operative Date: 17 October 2019]