



## Amendments

2.—(1) The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003<sup>(a)</sup> are amended in accordance with the following paragraphs.

(2) In regulation 2(1)—

(a) after the definition of “the Directive”, insert—

““existing ship” means a ship which is not a new ship;”;

(b) after the definition of “Merchant Shipping Notice”, insert—

““new ship” means a ship—

(a) in respect of which a building contract is placed on or after 27th September 2003,

(b) in the absence of a building contract, the date of construction of which is on or after 27th September 2003, or

(c) the delivery of which is on or after 27th September 2006;”;

(c) after the definition of “relevant inspector”, insert—

““sewage” means—

(a) drainage and other wastes from any form of toilets and urinals,

(b) drainage from medical premises (including, for example, a dispensary or sick bay) via wash basins, wash tubs and scuppers located in such premises,

(c) drainage from spaces containing living animals, or

(d) other waste waters when mixed with any drainage referred to in sub-subparagraph (a), (b) or (c);”;

(d) in the definition of “ship-generated waste”, before “oil” insert “sewage.”.

(3) In regulation 2(2)—

(a) in sub-paragraph (b), for “member State” substitute “EEA State”; and

(b) in sub-paragraph (c), for “a member State”, substitute “an EEA State”.

(4) After regulation 2(2), insert—

“(2A) For the purposes of the definition of “new ship” in paragraph (1), the date of construction of a ship is the date on which the keel of the ship is laid or on which the ship is at a stage of construction at which—

(a) construction identifiable with a specific ship has begun, and

(b) assembly of that ship has incorporated at least 50 tonnes of structural material or one per cent of the estimated mass of all structural material, whichever is less.”.

(5) At the end of regulation 2(4), add—

“(5) Any power under these Regulations to give a direction includes power to vary or revoke the direction by a subsequent direction.”.

(6) In regulation 3—

(a) in paragraph (2), for “and (4)” substitute “, (4) and (5),”; and

(b) at the end of paragraph (4), add—

“(5) In so far as—

(a) the notice referred to in regulation 11,

(b) regulation 12, or

(c) the charges referred to in paragraph (1) or (2) of regulation 13,

relates or relate to sewage, the provisions of regulation 11, 12 or 13 respectively apply to an existing ship only on and after 27th September 2008.”.

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(a) S.I. 2003/1809.

(7) In regulation 11—

- (a) in paragraph (5)(a), for “a member State” substitute “an EEA State”; and
- (b) for paragraph (6), substitute—

“(6) Where the previous port of call of a United Kingdom ship was a port in an EEA State, the master of that ship calling at a port of another EEA State shall, immediately on request by the competent authority of the latter State, produce to that authority a copy of the notice retained in accordance with paragraph (4).”.

(8) In regulation 17(2), for “member State”, substitute “EEA State”.

(9) In Schedule 2—

- (a) in the table, for the entries relating to “3. Cargo-associated waste” and “4. Cargo residues”, and for footnote “<sup>(1)</sup> May be estimates”, substitute—

“3. Sewage <sup>(1)</sup> ”					
4. Cargo-associated waste <sup>(2)</sup> (specify)					
5. Cargo residues <sup>(2)</sup> (specify)					

<sup>(1)</sup> Sewage may be discharged at sea in accordance with Regulation 11 of Annex IV of MARPOL 73/78. The corresponding boxes do not need to be completed if it is the intention to make an authorised discharge at sea.

<sup>(2)</sup> May be estimates.”

- (b) in Note 2., for “Member States”, substitute “EEA States”.

Signed by authority of the Secretary of State for Transport

Date

*Name*  
Minister of State  
Department for Transport

## EXPLANATORY NOTE

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

These Regulations give effect to Directive 2000/59/EC of the European Parliament and of the Council (“the amended 2000 Directive”) on port reception facilities for ship-generated waste and cargo residues (O.J. L 332, 28.12.2000, p.81), as amended by Directive 2002/84/EC of the European Parliament and of the Council (O.J. L 324, 29.11.2002, p.53), and Commission Directive 2007/71/EC of 13th December 2007 (O.J. L 329, 14.12.2007, p.33), as regards the delivery of sewage to reception facilities in a United Kingdom harbour.

The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809) (“the 2003 Regulations”) already give effect to the other provisions of the amended 2000 Directive.

These Regulations amend the 2003 Regulations in order to give effect to the amended 2000 Directive, as regards the delivery of sewage to reception facilities in a United Kingdom harbour. The amendments are contained in *regulation 2* of these Regulations.

The definition of “ship-generated waste” in regulation 2(1) of the 2003 Regulations is amended to include ship-generated sewage (*regulation 2(2)(d)* of these Regulations, with a definition of “sewage” inserted by regulation 2(2)(c)). Consequently, the duty in regulation 4 of the 2003 Regulations to ensure the provision of adequate waste reception facilities will now cover ship-generated sewage as well as other prescribed waste. Similarly, the requirement in regulation 6 of the 2003 Regulations to prepare and submit a waste management plan for approval will also now cover reception facilities for sewage.

The requirement in the 2003 Regulations for the master of a ship bound for a harbour or terminal to notify the harbour or terminal of the waste on board the ship will now cover sewage as well as other forms of waste (regulation 11 of the 2003 Regulations). The form of the notification is amended, in accordance with the amended 2000 Directive, so as to include sewage (Schedule 2 to the 2003 Regulations, as amended by *regulation 2(9)(a)* of these Regulations).

The requirement in regulation 12 of the 2003 Regulations to deliver ship-generated waste to a waste reception facility will also now apply in relation to sewage, as will regulation 13 of the 2003 Regulations containing provision in relation to charges to be made for reception facilities for ship-generated waste.

These provisions of the 2003 Regulations relating to the notification of information about, and the delivery of, sewage to reception facilities, and the making of charges for the reception of sewage, will apply to new ships, and also to existing ships on and after 27th September 2008 (regulation 3 of the 2003 Regulations as amended by *regulation 2(6)(a) and (b)* of these 2008 Regulations). A new ship and an existing ship are defined in regulation 2(1) of the 2003 Regulations, as amended by *regulation 2(2)(a) and (b)* of these Regulations, supplemented by a new regulation 2(2A) inserted by *regulation 2(4)* of these Regulations.

The various references in the 2003 Regulations to “member State” have been amended by these Regulations to “EEA State”. This follows Article 1 of the Decision of the EEA Joint Committee No. 77/2001 of 19 June 2001 (O.J. L238 6.9.2001, p.27) to add Directive 2000/59 (O.J. L332, 28.12.2000, p.81) to Annex XIII of the EEA Agreement. (*Regulation 2(3), (7), (8) and (9)(b)* of these Regulations.)

These Regulations clarify the scope of the direction giving powers in the 2003 Regulations, so that where the 2003 Regulations provide a power to give a direction, this includes power to vary or revoke the direction by a subsequent direction (*regulation 2(5)*).

The Regulations are made under sections 130A to 130D of the Merchant Shipping Act 1995, except in so far as they relate to the requirement to provide information to a United Kingdom harbour in advance of a ship’s arrival, and the application of the Regulations to hovercraft. In these cases the power is provided by section 2(2) of the European Communities Act 1972.

An Impact Assessment has been produced and a copy placed in the library of each House of Parliament. Copies may be obtained from Shipping Policy 2 Division, Department for Transport, 76 Marsham Street, London SW1P 4DR (telephone number 020 7944 3436).

A transposition note has been prepared and copies may be obtained from the Department for Transport at the address above.

Copies of the Impact Assessment and of the transposition note may also be accessed on the OPSI website [www.opsi.gov.uk](http://www.opsi.gov.uk).

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