



MERCHANT SHIPPING (MARPOL ANNEX I - PREVENTION OF POLLUTION BY OIL) ORDER 2019

Index

Article	Page
PART 1 - INTRODUCTORY	3
1 Title	3
2 Commencement	3
3 Interpretation.....	3
4 Application	5
5 Operator's responsibility	5
6 Provisions relating to offences.....	6
PART 2 - PREVENTION OF POLLUTION BY OIL	6
7 Requirement to comply with MARPOL Annex I.....	6
8 Type Approval	7
9 Exemptions	7
10 Equivalentents	8
11 Waiver	8
12 Validity of approvals, type approvals, exemptions, equivalentents and waivers	11
13 Maintenance of conditions after survey	11
14 Duration and validity of International Oil Pollution Prevention Certificate	11
15 Issue or endorsement of certificates by another government	12
PART 3 - FOREIGN SHIPS	12
16 Requirement to comply with MARPOL Annex I.....	12
17 Inspection of a foreign ship	12
18 Provision relating to enforcement and detention of a foreign ship.....	13
PART 4 - REVOCATIONS	14
19 Revocations.....	14

Statutory Document No. 2019/0239



Oil Pollution Act 1986

MERCHANT SHIPPING (MARPOL ANNEX I - PREVENTION OF POLLUTION BY OIL) ORDER 2019

Approved by Tynwald: 18 June 2019
Coming into Operation: 1 July 2019

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 I - Prevention of Pollution by Oil) Order 2019.

2 Commencement

If approved by Tynwald, this Order comes into operation on 1 July 2019¹.

3 Interpretation

In this Order —

“**Arctic Waters**” has the meaning given by MARPOL Annex I, regulation 46.2;

“**Contracting Government**” means the Government of a Party to the MARPOL Convention;

“**Convention country**” means a country which has consented to be bound by the MARPOL Convention;

“**controlled marine area**” has the meaning given by section 7 of the *Marine Infrastructure Management Act 2016*;

“**Department**” means the Department for Enterprise;

“**discharge**” means in relation to harmful substances or effluents containing such substances, any release howsoever caused from a ship including any

¹ Tynwald approval is required by section 17 of the Oil Pollution Act 1986

escape, disposal, spilling, leaking, pumping, emitting or emptying, and discharge does not include –

- (a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972; or
- (b) release of harmful substances directly arising from the exploration, exploitation and associated offshore processing of sea-bed mineral resources; or
- (c) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control;

“foreign ship” means any ship that is not a Manx ship;

“harmful substance” means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the MARPOL Convention;

“IMO” means the International Maritime Organization;

“International Oil Pollution Prevention Certificate” means a certificate issued in accordance with MARPOL Annex I, regulations 7 to 10;

“inspector” means a person appointed as an inspector under section 3 of the Merchant Shipping Act 1985;

“MARPOL Annex I” means *Annex I 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 which came into force on 1 October 2020;*

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

“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 (the Demise Charter Register) or under Part 3 of the Harbours Act 2010 (pleasure craft and certain other vessels);

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

“Oil Record Book Part I” means the Oil Record Book Part I specified in MARPOL Annex I, regulation 17 (Oil Record Book Part I - Machinery space operations);

“Oil Record Book Part II” means the Oil Record Book Part II specified in MARPOL Annex I regulation 36 (Oil Record Book Part II - Cargo/ballast operations);

“**oil tanker**” has the meaning given by MARPOL Annex I, regulation 1.5;

“**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;

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

“**special areas**” means the special areas defined in MARPOL Annex I, regulation 1.11; 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*² (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 on all voyages.
- (2) Unless expressly provided otherwise, Parts 1 and 3 of this Order apply to a foreign ship 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.

² 1987 C.49 as extended to the Island by SI 1991/1722

- (3) An operator which 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 he or she took all reasonable steps to avoid the commission of the offence.
- (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 OIL

7 Requirement to comply with MARPOL Annex I

- (1) A ship must comply with such of the requirements of MARPOL Annex I, as apply in relation to a ship of its description.
- (2) Unless the context clearly indicates otherwise, references to “Administration” in MARPOL Annex I are to be read as references to the Department or RO, subject to any more specific provision in this Order or MSN 066.
- (3) If there is a footnote in MARPOL Annex I, 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.
- (4) For the purposes of MARPOL Annex I, regulation 4.3, the reference to “Administration” in the phrase “approved by the Administration” must be read as reference to the Department.
- (5) For the purposes of MARPOL Annex I, regulation 6.1.2, the interval between renewal surveys must not exceed 5 years, except where MARPOL Annex I regulations 10.2.2, 10.5, 10.6 or 10.7 are applicable.

- (6) For the purposes of MARPOL Annex I, regulation 14.4, a ship of less than 400gt must be equipped with installations to ensure that oil or oily mixtures are either —
 - (a) retained on board and discharged to reception facilities; or
 - (b) if discharged into the sea, are so discharged in accordance with the conditions stated in MARPOL Annex I, regulation 15.6.
- (7) For the purposes of MARPOL Annex I —
 - (a) regulation 17.4, the entries in the Oil Record Book Part I; and
 - (b) regulation 36.5, the entries in the Oil Record Book Part II;must be in English.
- (8) For the purposes of MARPOL Annex I, regulation 33.2, the requirements established by the Department for the crude oil washing installation and associated equipment and arrangements are specified in MSN 066.
- (9) For the purposes of MARPOL Annex I, regulation 36.9, the Oil Record Book for oil tankers of less than 150gt operating in accordance with MARPOL Annex I regulation 34.6, must meet the requirements of the Merchant Shipping (Prevention of Oil Pollution) (Records) Regulations 1986³.
- (10) For the purposes of MARPOL Annex I, regulation 39.2, the form approved by the Department is specified in MSN 066.

8 Type Approval

If MARPOL Annex I requires anything to be type approved, it must be type approved in accordance with MSN 066.

9 Exemptions

- (1) In accordance with MARPOL Annex I regulation 3.1, the Department may exempt any ship such as hydrofoil, air-cushion vehicle, near-surface craft and submarine craft, or similar, whose constructional features are such as to render the application of any of the provisions of MARPOL Annex I, chapters 3 and 4 or section 1.2 of part II-A of the Polar Code relating to construction and equipment unreasonable or impracticable.
- (2) An exemption under paragraph (1) —
 - (a) may only be issued provided that the construction and equipment of the ship provides equivalent protection against pollution by oil, having regard to the service for which it is intended; and
 - (b) must be indicated in the International Oil Pollution Prevention Certificate.

³ GC216/86

- (3) In accordance with MARPOL Annex I, regulation 19.3.6, the Department may issue an exemption to permit –
 - (a) ballast piping and other piping such as sounding and vent piping to ballast tanks to pass through cargo tanks; and
 - (b) cargo piping and similar piping to cargo tanks to pass through ballast tanks.
- (4) An exemption under paragraph (3) may only be issued for short lengths of piping, provided they are completely welded or equivalent.
- (5) In accordance with MARPOL Annex I regulation 21.7, the Department may exempt an oil tanker of 600 tonnes deadweight and above carrying heavy grade oil as cargo from the provisions of MARPOL Annex I, regulation 21.
- (6) An exemption under paragraph (5) may only be issued if the oil tanker is engaged in voyages exclusively within –
 - (a) the territorial waters of the Island, or operates as a floating storage unit of heavy grade oil located within the territorial waters of the Island; or
 - (b) an area under the jurisdiction of another Contracting Government, or operates as a floating storage unit of heavy grade oil located within an area under the jurisdiction of another Contracting Government, provided that the Contracting Government within whose jurisdiction the oil tanker will be operating agrees to the operation of the oil tanker within an area under its jurisdiction.

10 Equivalents

- (1) In accordance with MARPOL Annex I regulation 5, 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 I, if such fitting, material, appliance or apparatus is at least as effective as that required by MARPOL Annex I.
- (2) An equivalent issued under paragraph (1), may not permit substitution of operational methods to effect the control of discharge of oil as equivalent to those design and construction features which are prescribed by MARPOL Annex I.

11 Waiver

- (1) In accordance with MARPOL Annex I regulation 3.4, the Department may waive the requirements of MARPOL Annex I regulations 29, 31 and 32, for an oil tanker which engages exclusively –
 - (a) on voyages both of 72 hours or less in duration and within 50 nautical miles from the nearest land; and

- (b) in trades between ports or terminals within a Contracting Government.
- (2) A waiver under paragraph (1) —
 - (a) is subject to the requirement that the oil tanker must retain on board all oily mixtures for subsequent discharge to reception facilities; and
 - (b) may only be issued if the Department determines that facilities available to receive such oily mixtures are adequate.
- (3) In accordance with MARPOL Annex I regulation 3.5, the Department may waive the requirements of MARPOL Annex I regulations 31 and 32 for oil tankers other than those referred to in MARPOL Annex I regulation 3.4, in cases where —
 - (a) the tanker is an oil tanker delivered on or before 1 June 1982 as defined in MARPOL Annex I regulation 1.28.3, of 40,000 tonnes deadweight or above, as referred to in MARPOL Annex I regulation 2.5, solely engaged in specific trades, and the conditions specified in MARPOL Annex I, regulation 2.6 are complied with; or
 - (b) the tanker is engaged exclusively in one or more of the following categories of voyages —
 - (i) voyages within special areas;
 - (ii) voyages within Arctic waters; or
 - (iii) voyages within 50 nautical miles from the nearest land outside special areas or Arctic waters where the tanker is engaged in —
 - (A) trades between ports or terminals of a Contracting Government; or
 - (B) restricted voyages as determined by the Department which are 72 hours or less in duration.
- (4) A waiver under paragraph (3) may only be issued subject to the following conditions —
 - (a) all oily mixtures are retained on board for subsequent discharge to reception facilities;
 - (b) for voyages specified in MARPOL Annex I regulation 3.5.2.3, if the Department has determined that adequate reception facilities are available to receive such oily mixtures in those oil loading ports or terminals at which the tanker calls;
 - (c) the International Oil Pollution Prevention Certificate, when required, is endorsed to the effect that the ship is exclusively engaged in one or more of the categories of voyages specified in MARPOL Annex I regulation 3, paragraphs 5.2.1 and 5.2.3.2; and

- (d) the quantity, time and port of discharge is recorded in the Oil Record Book Part II.
- (5) In accordance with MARPOL Annex I regulation 3.6, the Department may waive the requirements of MARPOL Annex I regulation 28.6 for the following oil tankers if loaded in accordance with the conditions approved by the Department or RO taking into account the guidelines developed by IMO specified in MSN 066 —
 - (a) oil tankers which are on a dedicated service, with a limited number of permutations of loading such that all anticipated conditions have been approved in the stability information provided to the master in accordance with MARPOL Annex I regulation 28.5;
 - (b) oil tankers where stability verification is made remotely by a means approved by the Department or RO;
 - (c) oil tankers which are loaded within an approved range of loading conditions; or
 - (d) oil tankers constructed before 1 January 2016 provided with approved limiting KG/GM curves covering all applicable intact and damage stability requirements.
- (6) In accordance with MARPOL Annex I, regulation 14.5, the Department may waive the requirements of MARPOL Annex I regulation 14.1 and 14.2, for —
 - (a) any ship engaged exclusively on voyages within special areas or Arctic waters; or
 - (b) any ship certified under the IMO's International Code of Safety for High-Speed Craft adopted (or otherwise within the scope of this Code with regard to size and design) engaged on a scheduled service with a turn-around time not exceeding 24 hours and covering also non-passenger/cargo-carrying relocation voyages for these ships;
- (7) A waiver under paragraphs 6(a) or 6(b) may only be issued subject to the following conditions —
 - (a) the ship is fitted with a holding tank having a volume adequate, to the satisfaction of the Department, for the total retention on board of the oily bilge water;
 - (b) all oily bilge water is retained on board for subsequent discharge to reception facilities;
 - (c) the Department has determined that adequate reception facilities are available to receive such oily bilge water in a sufficient number of ports or terminals the ship calls at;
 - (d) the International Oil Pollution Prevention Certificate, when required, is endorsed to the effect that the ship is exclusively

engaged on the voyages within special areas or Arctic waters or has been accepted as a high-speed craft for the purpose of MARPOL Annex I regulation 14.5, and the service is identified; and

- (e) the quantity, time, and port of the discharge are recorded in the Oil Record Book Part I.

12 Validity of approvals, type approvals, exemptions, equivalentents and waivers

An approval or type approval required by MARPOL Annex I, or an exemption, equivalentent or waiver permitted by MARPOL Annex I is only valid if —

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

13 Maintenance of conditions after survey

For the purposes of MARPOL Annex I, regulation 6.4.3, 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 I —

- (a) the master or operator of the ship must report at the earliest opportunity to the Department and to the RO responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by MARPOL Annex I regulation 6.1 is necessary; and
- (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 the Department or RO shall ascertain that such report has been made.

14 Duration and validity of International Oil Pollution Prevention Certificate

- (1) Subject to paragraph (2), for the purposes of MARPOL Annex I, regulation 10.1, an International Oil Pollution Prevention Certificate is valid for the period stated in it, which must not exceed 5 years.
- (2) The validity of an International Oil Pollution Prevention Certificate may exceed 5 years in the circumstances specified in MARPOL Annex I, regulation 10.

15 Issue or endorsement of certificates by another government

- (1) In accordance with MARPOL Annex I regulation 8, the Department may request a Contracting Government to —
 - (a) survey a Manx ship; and
 - (b) endorse or issue certificates to the ship in accordance with MARPOL Annex I if the Contracting Government is satisfied that the requirements of MARPOL Annex I 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.
- (3) A certificate issued in response to a request under MARPOL Annex I regulation 8.3, has the same force and must receive the same recognition as a certificate issued under MARPOL Annex I, regulation 7.

PART 3 - FOREIGN SHIPS

16 Requirement to comply with MARPOL Annex I

A foreign ship in the territorial waters of the Island must comply with such of the requirements of MARPOL Annex I as apply in relation to a ship of its description.

17 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 Oil Pollution Prevention Certificate is valid; and
 - (b) whether the foreign ship has discharged any harmful substances in violation of the provisions of MARPOL Annex I.
- (2) For the purposes of paragraph (1)(a), an inspector may accept any certificate that he or she considers to be equivalent to the International Oil Pollution Prevention Certificate if the flag State of the foreign ship is not a Contracting Government to the MARPOL Convention.
- (3) A foreign ship in a port or offshore terminal of the Island may be subject to inspection by an inspector concerning operational requirements under MARPOL Annex I, where there are clear grounds for an inspector to believe that the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by harmful substances.
- (4) Nothing in paragraph (3) shall be construed to limit an inspector carrying out control over operational requirements specifically provided for in MARPOL Annex I.

18 Provision relating to enforcement and detention of a foreign ship

- (1) If an inspector carries out an inspection in accordance with article 17(1)(a), and finds that —
 - (a) the International Oil Pollution Prevention Certificate is not produced, has expired or ceased to be valid, or
 - (b) there are clear grounds for believing that the condition of the 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 17(1)(b), and the inspection indicates a violation of the MARPOL Convention, a report must be forwarded to the Contracting Government of the foreign ship for any appropriate action.
- (4) If an inspector carries out an inspection in accordance with article 17(3), the foreign ship may be detained until the situation has been brought to order in accordance with the requirements of MARPOL Annex I.
- (5) If an inspection is conducted or when 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 it appears to the High Bailiff 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 of the *Merchant Shipping Registration Act 1991* (which relates to the detention of a ship) 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 I Order”**; and
 - (c) after sub-section (3) add —
 - “(4) In this section —**
“inspector” has the meaning given by article 3 of the MARPOL Annex I Order; and
 - “MARPOL Annex I Order”** means the Merchant Shipping (MARPOL Annex I - Prevention of Pollution by Oil) Order 2019. **”**

PART 4 - REVOCATIONS

19 Revocations

The following are revoked —

- (a) The Merchant Shipping (Prevention of Oil Pollution) Order 1986⁴;
- (b) The Merchant Shipping (Prevention of Oil Pollution)(Reception Facilities) Order 1986⁵;
- (c) The Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 2000⁶;
- (d) The Merchant Shipping (Prevention of Oil Pollution) (Amendment) Order 2004⁷; and
- (e) The Merchant Shipping (MARPOL Annex I - Prevention of Pollution by Oil) Regulations 2006⁸.

⁴ GC 195/86

⁵ GC 215/86

⁶ SD 316/00

⁷ SD 363/04

⁸ SD 818/06

MADE: 8 May 2019

LAURENCE SKELLY
Minister for Enterprise

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to Annex I of the International Convention for the Prevention of Pollution from Ships 1973 (MARPOL), including all amendments made to that Annex up to and including those adopted by IMO Resolution MEPC.276(70) on 28 October 2016 which came in to force on 1 March 2018.

MARPOL was adopted by the International Maritime Organization (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 chemicals, other harmful substances, garbage, sewage and air pollution and emissions from ships.

MARPOL Annex I regulates the prevention of marine pollution by oil, 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 I as apply in relation to a ship of its description.

This Order comes into operation on 1 July 2019.

The Order revokes the Merchant Shipping (Prevention of Oil Pollution) Order 1986 (GC 195/86); the Merchant Shipping (Prevention of Oil Pollution)(Reception Facilities) Order 1986 (GC 215/86); the Merchant Shipping (Prevention of Oil Pollution)(Amendment) Regulations 2000 (SD 316/00); the Merchant Shipping (Prevention of Oil Pollution)(Amendment) Order 2004 (SD 363/04); and the Merchant Shipping (MARPOL Annex I - Prevention of Pollution by Oil) Regulations 2006 (SD818/06).

This Order does not implement MARPOL Annex I, regulation 38 'Reception Facilities', in Isle of Man ports, which is the remit of the Department of Infrastructure.

Further information on compliance with this Order can be found in MSN 066.

This Order is amended by SD2020/0427 Merchant Shipping (MARPOL)(Amendments) Order 2020 to give effect to the latest updates to the MARPOL Convention for Annex I which is IMO Resolution MEPC.314(74) adopted on 17 May 2019 and came into force on 1 October 2020.

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>