
Guidance on the Merchant Shipping (Ship-to-Ship Transfer) Regulations 2008

Notice to all Shipowners, Agents, Masters & Officers on Ships, Harbour Masters, Ship-to-Ship Transfer Operators and Bunkering Operators etc

This notice should be read with SI 2008 /xxxx

PLEASE NOTE:-

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

Summary

This notice sets out:

- new restrictions regarding transfers between ships of cargo and bunker fuel in UK waters
- considerations for exemptions from the restrictions
- industry guidance on best practice for transfer of cargo

1. Introduction

1.1 The Merchant Shipping (Ship-to-Ship Transfer) Regulations 2008 place restrictions on transfers between ships of cargo or bunker fuel that consists wholly or mainly of a hazardous substance in UK waters.

1.2 The legislation is applicable within the United Kingdom's internal waters and territorial seas, namely those waters within the baseline and those waters extending to 12 nautical miles from the baseline.

2. Application

2.1 Transfers of cargo or bunker fuel between ships are prohibited, unless the ships are within harbour authority waters (subject to exceptions described in Section 3).

2.2 Transfers of cargo (including where bunker fuel is carried as cargo) between ships within harbour authority waters is subject to the following additional restrictions:

- a) They must be part of a programme of transfers (a planned series of transfers in a specified location or locations) which has been authorised by the relevant harbour authority.
- b) Where harbour authority waters include one or more European Sites (as defined by the Conservation (Natural Habitats, &c) Regulations 1994) it must be established that the programme of transfers would not be likely to have any significant impact upon these sites.
- c) The Harbour Authority must also have obtained the environmental consent of the appropriate authority to the programme of transfers.

Schedule 1 of the Statutory Instrument provides detail concerning assessment of impact on European Sites. Schedule 2 provides detail concerning obtaining environmental consent from the appropriate authority.

3. Exceptions

3.1 Transfers are not subject to the restrictions if they meet the following criteria:

- between a ship and an offshore installation;
- to or from a warship, naval auxiliary ship or other ship owned or operated by a State and used solely, for the time being, on government non-commercial service.

4. Exemptions

4.1 In addition, exemptions to these restrictions will be considered on a case by case basis.

4.2 Further applications for exemption should be made to the Counter Pollution Team of the Maritime and Coastguard Agency. Annex A provides details:

5. Industry Guidance / Best Practice

5.1 It is strongly recommended that transfers of cargo carried out as part of a permitted programme of transfers within harbour authority waters, or carried out outside of harbour authority waters but within the scope of the regulations, owing to exemption from the restrictions, is carried out in line with industry guidance on best practice.

5.2 The following texts are currently considered as best practice:

- Ship to Ship Transfer Guide (Petroleum), 4th Edition (2005), ICS/OCIMF
ISBN 1 85609 258 5
- Ship to Ship Transfer Guide (Liquified Gases), 2nd Edition (1995)
ISBN 1 85609 082 5

5.3 Further guidance will be issued by the MCA should the above documents be further updated or new best practice be recognised within industry.

More Information

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Annex A – Application for Exemption from the Regulations

A1.1 The Maritime and Coastguard Agency (MCA) will not consider exempting any transfer of cargo or bunker fuels between ships outside of harbour authority waters that can reasonably be carried out within harbour authority waters. **This will apply to the majority of transfer operations.**

A1.2 However certain types of transfer, including but not limited to those below may be exempted on a case by case basis.

- a) as part of seismic survey operations
- b) as part of cable laying / pipe laying operations
- c) operations involving offshore support vessels
- d) bunker fuel transfers outside of statutory harbour areas for ships of restrictively deep draft
- e) transfers operations in situations of *force majeure*

In the case of a, b, & c, a vessel involved in such operations may be exempted from the regulations, in the form of a waiver letter valid for (x) years. In the case of d & e a specific transfer operation may be exempted from the regulations.

Exempting a Vessel from the Regulations

A2.1 To exempt a vessel from the regulations, in the form of a waiver letter valid for [x] years, the following information will need to be supplied, in the form of a letter addressed to MCA Counter Pollution Team (address below):

- a) Vessel Name
- b) IMO number
- c) Type of Vessel / Nature of Operations

By Post: MCA Counter Pollution Team, Spring Place, 105 Commercial Road, Southampton, SO15 1EG

By Email: meor.meor@mcga.gov.uk

By fax: 02380 329485

A2.2 Specifically, the type of vessel / nature of operation will need to be one of those listed in Para A1.2(a-c), or similar, so as it can be proved that regular transfers between ships at sea (cargo or bunker fuel) are a necessary and ongoing aspect of the vessels operations.

A2.3 A waiver letter will be issued if appropriate, confirming the relevant vessels exemption, a copy of which is to be held on board.

Exempting a Transfer Operation from the Regulations

A3.1 An application to an exempt a transfer operation should be received:

- At least 72 hours in advance of the operation if it is a planned operation, such as a bunker transfer at sea due to restrictive draft
- As soon as is possible where the operation is due to *force majeure* (in such a circumstance contact should also be made with HM Coastguard who will cascade information in line with the National Contingency Plan)

A3.2 For a transfer operation to be exempted from the regulations, it is essential that the MCA is given as much information as possible about how a transfer of cargo between ships

will be conducted and what safeguards and contingencies will be put in place to guard against the risk of any resultant pollution. The application to carry out a transfer operation must, where appropriate include the following details:-

- a. the ships involved (Name, IMO number, type of vessel) and their safety certification, including a signed declaration by the owner or master that each ship is fit and equipped for the purposes of a transfer operation;
- b. the manning of those ships during the operation, including details of manning certificates;
- c. the qualifications and relevant experience of those overseeing the transfer (Chapter 1 of the ICS/OCIMF Guide);
- d. the properties of the cargo or fuel to be transferred;
- e. the area of operation;
- f. the expected duration of the operation;
- g. the detailed safety precautions to be taken (Chapter 3, ICS/OCIMF Guide);
- h. the communications arrangements (Chapter 4, ICS/OCIMF Guide);
- i. the operational preparations (Chapter 5, ICS/OCIMF Guide);
- j. the manoeuvring, mooring and fendering arrangements (Chapter 6, ICS/OCIMF Guide);
- k. the procedures alongside (Chapter 7, ICS/OCIMF Guide);
- l. the management of the transfer operation itself (Chapter 8, ICS/OCIMF Guide);
- m. the unmooring arrangements (Chapter 9, ICS/OCIMF Guide);
- n. the equipment to be deployed (Chapter 10, ICS/OCIMF Guide);
- o. the limiting weather criteria to be applied before mooring and during the transfer, noting that the MCA will not approve any transfer in more than a 2 metre sea or wind speeds greater than 27 knots;
- p. a Contingency Plan setting out the steps to be taken in the event of:-
 - i. deteriorating weather;
 - ii. mooring rope failure;
 - iii. pollution following damage, such as a collision;and
 - iv. fire;
- q. an Oil Spill Contingency Plan (including pollution resources commensurate with the risk, both at sea and on shore) to guard against the threat of oil pollution; and
- r. where appropriate (see below), the equipment, manning and operation of a suitable oil recovery vessel.

These details may be sent to via the following:

By Post: MCA Counter Pollution Team, Spring Place, 105 Commercial Road, Southampton, SO15 1EG

By Email: meor.meor@mcga.gov.uk

By fax: 02380 329485

A3.3 Details of such an application will be sent for information to the relevant Local Authority Emergency Planning Officers and to the appropriate MCA HM Coastguard Station.

Attendance of an MCA Official

A3.4 Attendance of an MCA Official at an exempted transfer operation may be deemed necessary by the MCA. This may involve a preliminary ship inspection and / or may be followed by attendance throughout all transfer operations (although each aspect may be overseen by different Officials). The MCA's attendance will be at the expense of the transfer operator and the relevant fee (calculated in accordance with the latest Merchant Shipping (Fees) Regulations) must accompany the application.

Oil Recovery Vessel

A3.5 Because they are not readily amenable to dispersants, a suitably equipped oil recovery vessel must be in attendance during an approved transfer operation involving oils with the following properties:

- a kinematic viscosity greater than 1,500 centistokes at 15° Celsius; or
- a pour point greater than sea temperature at the time of transfer; or
- an asphaltene content greater than 0.5% by weight.

A3.6 The oil recovery vessel must meet the requirements of Merchant Shipping Notice M.1663 and must have:-

- the capability to take oil recovered from the sea into its tanks;
- a system capable of recovering the transferred oil in seas up to 2 metres;
- enough boom to contain a spill between the transferring ships until it can be recovered; and
- personnel trained to operate the oil recovery system and boom.

Navigational Warnings

A3.7 Immediately before commencing an approved transfer operation, a navigational warning should be broadcast on VHF in accordance with the procedures described in Section IV of Article S33 of the International Telecommunication Union (ITU) Radio Regulations. The warning should be preceded by the appropriate safety signal (SECURITE) and should be broadcast on VHF Channels 6, 8, 72 or 77 following an initial announcement on Channel 16. The VHF/DSC installation should also be used to transmit an "ALL SHIPS SAFETY ALERT" on VHF Channel 70, indicating the Channel to be used for the subsequent voice broadcast. The navigational warning should include:-

- the names of the ships involved;
- details of the area where manoeuvres will take place and the precise position of the transfer operation; and
- the estimated start and finish times.

A3.8 Once the transfer is complete, a further advisory broadcast should be made, again following a short announcement on VHF Channel 16 and use of the DSC facility on VHF Channel 70. The message should not be preceded by the safety signal (SECURITE).

Approval of Exemption

A3.9 A certificate will be issued confirming the exemption of a transfer operation from the regulations where appropriate.