This Statutory Instrument has been made in consequence of a defect in S.I. 2018/68 and S.I 2019/940 and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2020 No. 496

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Port State Control and Prevention of Pollution from Noxious Liquid Substances in Bulk) (Amendment) Regulations 2020

Made - - - -	*at 11.26 a.m. on 11th May 2020*
Laid before Parliament	*at 2.00 p.m. on 11th May 2020*
Coming into force - -	*1st June 2020*

The Secretary of State in exercise of the powers conferred by sections 85(1) and (3) and 86(1)(a) and (b) of the Merchant Shipping Act 1995(**a**), articles 3 and 5 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987(**b**) and article 2 of the Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Order 1996(**c**) makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Port State Control and Prevention of Pollution from Noxious Liquid Substances in Bulk) (Amendment) Regulations 2020 and come into force on 1st June 2020.

Amendment of the Merchant Shipping (Port State Control) Regulations 2011

2.—(1) The Merchant Shipping (Port State Control) Regulations 2011(**d**) are amended as follows.

(2) In regulation 2(1) (interpretation of Part 1), in the definition of "Conventions", for paragraphs (b) and (c) substitute—

(**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, Part 1. Section 85 was amended by the British Overseas Territories Act 2002 (c. 8), section 2(3). There are other amendments but none is relevant.

(**b**) S.I. 1987/470, amended by S.I. 1990/2595, 1997/2569, 1998/254 and 2015/664. Following the consolidation of section 20 of the Merchant Shipping Act 1979 (c. 39), the Order has effect as if made under section 128 of the Merchant Shipping Act 1995 (c. 21). The effect of the Order is extended by section 128(5) of the Merchant Shipping Act 1995, so as to authorise the making of regulations for the purpose of giving effect to agreements which modify the agreements described in section 128(1).

(**c**) S.I. 1996/282, amended by the Marine and Coastal Access Act 2009, Schedule 4, Part 1, paragraph 3 and S.I. 2015/664.

(**d**) S.I. 2011/2601, amended by S.I. 2017/825, 2018/1221 (which contains prospective amendments) and 2019/940; there are other amending instruments but none is relevant.

"(b) the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);

(c) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocols of 1978 and 1997 relating thereto (MARPOL);".

Amendment of the Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018

3.—(1) The Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018(**a**) are amended as follows.

(2) In regulation 5 (application), in paragraphs (3) and (4), in both place it occurs, after "United Kingdom waters" add "or controlled waters".

Signed by authority of the Secretary of State for Transport

Kelly Tolhurst
Parliamentary Under Secretary of State
Department for Transport

At 11.26 a.m. on 11th May 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601) ("the 2011 Regulations") to the effect that the powers in the 2011 Regulations may be exercised in relation to ships to which the International Convention for the Safety of Life at Sea, 1974 ("SOLAS") applies.

These Regulations also amend the Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018 (S.I. 2018/68) ("the 2018 Regulations") to the effect that the 2018 Regulations apply to ships carrying noxious liquid substances in bulk in "controlled waters" (waters within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of the United Nations Convention on the Law of the Sea) and the discharge by ships of noxious liquid substances in bulk causing pollution in those waters.

Regulation 2(1) of the 2011 Regulations includes in the definition of "Conventions" the international instruments in respect of which the 2011 Regulations apply. Regulation 3 of the Merchant Shipping (Prevention of Air Pollution from Ships) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/940) amended regulation 2(1) of the 2011 Regulations but this was defective because the amendment had the effect of removing SOLAS from the scope of the 2011 Regulations. These Regulations therefore amend the 2011 Regulations to bring SOLAS back within their scope.

Regulation 5 of the 2018 Regulations makes provision about their territorial application. Regulation 5 provided, amongst other things, that regulation 24 (control of discharges of noxious liquid substances from ships) applies to discharges of noxious liquid substances in bulk from ships causing pollution in United Kingdom waters and regulation 26 (prohibition on the carriage and discharge of unassessed liquid substances) applies to ships, carrying unassessed liquid substances in breach of this regulation, causing pollution in United Kingdom waters.

Regulation 5 was defective because it does not reflect the position agreed in international law and extend the territorial application of regulations 24 and 26 to occurrences causing pollution in controlled waters. These Regulations therefore amend the 2018 Regulations to extend their application to ships carrying noxious liquid substances in bulk in "controlled waters" and to the discharge by ships of noxious liquid substances in bulk causing pollution in those waters.

(**a**) S.I. 2018/68, to which there are amendments not relevant to these Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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

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£4.90

UK202005111002 05/2020 19585

http://www.legislation.gov.uk/id/uksi/2020/496

ISBN 978-0-11-119594-9

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