

# **United Kingdom: Measures to Implement MARPOL Convention Annex VI, Chapter 4**

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# United Kingdom: Measures to Implement MARPOL Convention Annex VI, Chapter 4

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**SUMMARY** The UK is currently implementing Annex VI, Chapter 4, of the International Convention for the Prevention of Pollution from Ships. It has amended the Merchant Shipping Act to allow an Order in Council to be made to bring in regulations, but does not yet appear to have yet promulgated any. The European Union (EU) has also been actively working to curb emissions from ships, issuing Directives that Member States must implement and requiring new ships to be built according to newly issued energy efficiency standards. The UK government has met with industry stakeholders and EU representatives to explore ways to ensure compliance with the new regulations with minimal cost and regulation, secure EU financing to mitigate the significant investment costs for shipowners and ports, and guarantee fair and consistent enforcement of these regulations throughout the EU so that UK ports are not unfairly disadvantaged.

## I. Introduction

The International Convention for the Prevention of Pollution from Ships (MARPOL Convention) Annex VI sets global limits on ship exhaust emissions.<sup>1</sup> The United Kingdom's mode of compliance with MARPOL Annex VI is being driven in part by the requirement to comply with European Union (EU) law. Directive 2012/33/EU provides the legal framework under which European national air pollution laws are to comply with MARPOL Annex VI.<sup>2</sup> The EU is also encouraging its Member States to introduce more stringent measures than are required by MARPOL Annex VI to lower the sulfur limits for marine fuels.<sup>3</sup>

The MARPOL Convention Annex VI, Chapter 4,<sup>4</sup> contains regulations on energy efficiency for ships. This Annex made the Energy Efficiency Design Index (EEDI) mandatory for new ships, and the Ship Energy Efficiency Management Plan (SEEMP) mandatory for all ships. The

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<sup>1</sup> International Convention for the Prevention of Pollution from Ships (MARPOL Convention), Nov. 2, 1973, as amended by 1978 Protocol, Feb. 17, 1978, 1340 U.N.T.S. 61 (entered into force Oct. 2, 1983).

<sup>2</sup> Directive 2012/33/EU of the European Parliament and of the Council of 21 November 2012 Amending Council Directive 1999/32/EC As Regards the Sulphur Content of Marine Fuels, 2012 O.J. (L 327) 1, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0033>.

<sup>3</sup> UK P&I CLUB, LEGAL BRIEFING: STRICTER AIR POLLUTION REGULATIONS ON THE HORIZON 7 (June 2014), [http://www.ukpandi.com/fileadmin/uploads/uk-pi/Latest\\_Publications/LEGAL\\_BRIEFINGS/UKLegal\\_Emissions\\_web.pdf](http://www.ukpandi.com/fileadmin/uploads/uk-pi/Latest_Publications/LEGAL_BRIEFINGS/UKLegal_Emissions_web.pdf).

<sup>4</sup> MARPOL Convention, *supra* note 1, Annex 19, Resolution MEPC.203(62), July 15, 2011, available at <http://www.imo.org/OurWork/Environment/PollutionPrevention/Air%20Pollution/Documents/Technical%20and%20Operational%20Measures/Resolution%20MEPC.203%2862%29.pdf>.

regulations apply to all ships of four hundred gross tonnage (GT) and above and entered into force on January 1, 2013.<sup>5</sup>

## II. Legislation

The Queen was provided with the authority to make an Order in Council to bring Annex VI of the MARPOL Convention into effect in the UK through an amendment to section 128(1) of the Merchant Shipping Act, 1995.<sup>6</sup> No Order in Council yet appears to have been made under this section and, as reported in January 2013, the UK was in the process of developing regulations to transpose the EEDI into UK law, and a consultation on the matter was expected.<sup>7</sup> However, the requirements of Annex VI are applicable internationally and thus, according to the UK Maritime and Coastguard Agency, as the UK is a party to these agreements, the UK Port State Control expects UK vessels to comply.<sup>8</sup>

The Maritime and Coastguard Agency has stated that during the development of regulations, consideration would be given to the implementation of a regime for domestic vessels that is consistent as far as “is reasonable and practical” with the regime for the international trading fleet.<sup>9</sup> Vessels registered under the UK flag engaged solely on domestic voyages currently do not have to comply with the SEEMP but are advised to do so.<sup>10</sup> If a domestic ship changes its purpose to an international vessel, full compliance is required.<sup>11</sup>

The Agency has also stated that all ships of 400 GT or above that engage in international voyages are required to have an International Energy Efficiency Certificate, and that “[t]he UK has authorized Recognized Organisations to issue these certificates on behalf of the flag.”<sup>12</sup>

## III. Consultations

In October 2012 and again in 2013, Stephen Hammond, the UK Shipping Minister, held round-table meetings with those likely to be affected by the new Chapter, including industry stakeholders from the shipping, oil refining, logistics, ports, and abatement (scrubbing) technology sectors,<sup>13</sup> to consider how the government could ensure people would work to

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<sup>5</sup> MARITIME AND COASTGUARD AGENCY, POLLUTION – ENTRY INTO FORCE OF THE ENERGY EFFICIENCY DESIGN INDEX, MARINE GUIDANCE NOTE 462 (Jan. 2012), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/282102/mgn462.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/282102/mgn462.pdf).

<sup>6</sup> Merchant Shipping Act, 1995, c. 21, § 128, <http://www.legislation.gov.uk/ukpga/1995/21/contents>, as amended by Merchant Shipping (Pollution) Act, 2006, c. 8, § 2, <http://www.legislation.gov.uk/ukpga/2006/8/section/2>.

<sup>7</sup> MARITIME AND COASTGUARD AGENCY, *supra* note 5, ¶ 7.1.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* ¶ 7.2.

<sup>10</sup> *Id.* ¶ 6.1.

<sup>11</sup> *Id.* ¶ 6.2.

<sup>12</sup> *Id.* ¶ 5.1.

<sup>13</sup> 18 June 2014, PARL. DEB., H.C. (6th ser.) (2014) col. 125WH, <http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm140618/halltext/140618h0002.htm>.

comply with the regulations in a way that required minimal cost and regulation. He also commissioned a survey to look at the economic costs of the regulations to industry.<sup>14</sup>

#### IV. European Legislation

The European Commission has a strategy to reduce CO<sub>2</sub> emissions gradually from ships.<sup>15</sup> It has published proposed regulations on monitoring, reporting, and verification of CO<sub>2</sub> emissions from all ships over 5,000 GT that use EU ports.<sup>16</sup> If these regulations are approved by the European Parliament and Council, they will become directly effective in all Member States on July 1, 2015, with reporting systems becoming compulsory as of January 1, 2018. The reporting requirements require ship owners to both monitor and report CO<sub>2</sub> emissions from their ships and other data that demonstrate the ships' energy efficiency. Further measures will provide financial incentives for vessels to operate in a more energy-efficient manner.<sup>17</sup>

The EU has implemented Directive 2012/33/EU on sulfur in marine fuels to incorporate the International Maritime Organization's MARPOL standards.<sup>18</sup> During debates on this Directive, the UK government engaged in extensive discussions with other northern European states that would be affected by the limits applying in the North Sea.<sup>19</sup> They attempted to press for exemptions to the regulations for vulnerable routes, but this garnered no support from other members and was abandoned.<sup>20</sup> The UK government also solicited assurances from the EU that it would meet with individual ferry operators that approached it to discuss methods of compliance with these regulations.<sup>21</sup>

The UK government has also recognized the significant investment cost required for shipowners to comply with these regulations, and thus has been exploring the scope for securing EU financing under the Trans-European Networks program and affordable capital from the European Investment Bank for shipowners and ports.<sup>22</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> *Climate Action: Reducing Emissions from the Shipping Sector*, EUROPEAN COMMISSION, [http://ec.europa.eu/clima/policies/transport/shipping/index\\_en.htm](http://ec.europa.eu/clima/policies/transport/shipping/index_en.htm) (last updated June 20, 2014).

<sup>16</sup> *Proposal for a Regulation of the European Parliament and of the Council on the Monitoring, Reporting and Verification of Carbon Dioxide Emissions from Maritime Transport and Amending Regulation (EU) No 525/2013*, COM (2013) 480 final (June 28, 2013), [http://ec.europa.eu/clima/policies/transport/shipping/docs/com\\_2013\\_480\\_en.pdf](http://ec.europa.eu/clima/policies/transport/shipping/docs/com_2013_480_en.pdf).

<sup>17</sup> UK P&I Club, *supra* note 3, at 9.

<sup>18</sup> Directive 2012/33/EU, *supra* note 2.

<sup>19</sup> PARL. DEB., *supra* note 13, col. 126WH.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

## V. Enforcement

The UK government has indicated its plans to adopt a “pragmatic approach” towards enforcement.<sup>23</sup> It has discussed with other Member States and the European Commission to provide for a fair and consistent approach throughout the EU, so that services from UK ports are not unfairly disadvantaged.<sup>24</sup>

The government has said that it will seek to protect UK jobs that may be threatened by the increased cost burden the implementation of these regulations will impose upon shipowners and thus, it is working to ensure transitional arrangements can be put in place while the necessary technology is implemented.<sup>25</sup>

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<sup>23</sup> *Id.* col. 127WH.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* col. 128WH.