



Prevention of  
Air Pollution  
from Ships

DILLON  EUSTACE

DUBLIN CORK BOSTON NEW YORK TOKYO

## PREVENTION OF AIR POLLUTION FROM SHIPS

### Introduction

Directive 2005/33 which deals with sulphur content of marine fuel demonstrates the increasing regulation regarding ship emissions and more stringent control for ship owners within the EU. Annex VI (Regulations for the Prevention of Air Pollution from Ships) under the MARPOL Convention has been incorporated into Irish law.

Annex VI limits sulphur oxide (SO<sub>x</sub>) emissions and prohibits deliberate emissions of ozone-depleting substances and sets the maximum sulphur content of fuel oil at 4.5% by mass (m/m). Annex VI introduced the SO<sub>x</sub> Emission Control Area (SECA). Currently only one SECA has been established in the Baltic Sea, however the North Sea SECA is to be implemented by November 2007. The sulphur content of fuel oil used in a SECA must not exceed 1.5% m/m.

### Sea Pollution Act 1991

The Sea Pollution Act, 1991 (the "Act") as amended now refers throughout to "*substances subject to control by Annex VI to the MARPOL Convention*" thus importing Annex VI into the existing legislative framework.

Notification is now required from the owner or master of any ship where prescribed substances are loaded or unloaded may be required and incidents involving such substances must be officially reported. Ship masters have to keep records of operations on board regarding these substances.

Ships may be surveyed, inspected or tested by ship-surveyors or inspectors appointed under the Act and a certificate of compliance will issue providing everything is in order. Once this certificate issues no further changes can be made to the ship's fittings, structure or equipment without official consent, the exception being where there is replacement of defective parts.

Inspectors are given wide-ranging powers under the Act, and these include the right to board a ship at any time to inspect all machinery, equipment and fittings and the right to inspect and require production of any document. It is an offence to obstruct or impede inspectors in

the exercise of their duties or to fail to comply with their requirements. Harbour-Masters are also accorded similar powers.

If an inspector is satisfied that a ship's condition does not comply with its compliance certificate (or equivalent issued by another MARPOL state) or is unfit to be put to sea without threatening the marine environment he can direct the master to undertake all necessary repairs and/or modifications. The inspector has power to detain any ship until such repairs or modifications are undertaken.

Ships can be refused entry into a port or the state, detained, or ordered to leave the state if there is reasonable cause to believe they do not comply with the Act or pose a serious threat to the environment.

Under the Act both the owner and master can face heavy monetary fines and/or imprisonment for non-compliance.

## Future Developments

Directive 2005/33 has not been transposed into Irish law, however its implementation is imminent. It mirrors the MARPOL limit of 1.5% m/m for 'marine fuel' used in SECAs and interestingly sets August 2007 as the date of implementation of the North Sea SECA ahead of international law which has set a date of November 2007. This could present a possible conflict with international law and could penalise shipowners, restricting their right of free passage. It envisages the designation of additional SECAs and the possible reduction of SECA sulphur limits to 0.5%. Importantly, the Directive applies to *all* ships regardless of the flag state and will have far-reaching implications for all ship owners.

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