

Legal Basis

1 The legal basis for this Plan is [section 293 of the Merchant Shipping Act 1995](#)¹, as amended by the [Merchant Shipping and Maritime Security Act 1997](#)², [the Pollution Prevention Control Act 1999](#)³, and [the Marine Safety Act 2003](#)⁴. Section 293 of the Merchant Shipping Act 1995 gives the Secretary of State for Transport the function of taking, or co-ordinating, measures to prevent, reduce and minimise the effects of marine pollution.

2 Similarly, [the Offshore Installations \(Emergency Pollution Control\) Regulations 2002](#)⁵, made under [section 3 of the Pollution Prevention and Control Act 1999](#)⁶, provides powers for the Secretary of State for the Department of Energy and Climate Change to give directions and to take such other actions as may be necessary in respect of an offshore installation to prevent or minimise pollution or the threat of pollution.

3 [EU Directive 2002/59/EC](#)⁷ (as amended) provides that Member States are to draw up plans to accommodate, if the situation so requires, ships in distress in their ports or any other protected place affording the best possible conditions, in order to limit the consequences of accidents at sea. In accordance with Article 20 of Directive 2002/59/EC, [the Secretary of State's Representative \(SOSREP\) for Maritime Salvage and Intervention](#)⁸, has been designated as the UK competent authority to take independent decisions concerning the accommodation of ships in need of assistance. The MCA is the competent authority for drawing up plans and conducting risk assessments and analysis for the accommodation of ships at places of refuge which it provides to support the SOSREP in this decision making process.

4 This Plan also meets one of the United Kingdom Government's obligations under [the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990](#)⁹. [The Merchant Shipping \(Oil Pollution Preparedness, Response and Co-operation Convention\) Regulations 1998](#)¹⁰, implement other obligations under the Convention. In particular, they require ports, harbours and oil handling facilities to have oil pollution emergency plans that are compatible with this Plan. Harbour authorities must submit revised plans to the MCA every five years or earlier if a substantial change is required. The MCA has published advice in its ["Oil Spill](#)

¹ <http://www.legislation.gov.uk/ukpga/1995/21/section/293>

² http://www.legislation.gov.uk/ukpga/1997/28/pdfs/ukpga_19970028_en.pdf

³ <http://www.legislation.gov.uk/ukpga/1999/24/contents>

⁴ <http://www.legislation.gov.uk/ukpga/2003/16/contents>

⁵ http://legislation.gov.uk/uksi/2002/1861/pdfs/uksi_20021861_en.pdf

⁶ http://www.legislation.gov.uk/ukpga/1999/24/pdfs/ukpga_19990024_en.pdf

⁷ [http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:208:0010:0027:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:208:0010:0027:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:208:0010:0027:EN:PDF)

⁸ <https://www.gov.uk/government/publications/national-contingency-planncp>

⁹ <http://www.admiraltylawguide.com/conven/oilpolresponse1990.html>

¹⁰ <http://www.legislation.gov.uk/uksi/1998/1056/made>

[Contingency Plan Guidelines for Ports, Harbours and Oil Handling Facilities](#)¹¹. Similarly, DECC requires the operators of offshore installations to have an Oil Pollution Emergency Plan approved under the above Convention and has issued [“Guidance Notes to Operators of Offshore Oil and Gas Installations \(including pipelines\) on Oil Pollution Emergency Plan Requirements”](#)¹², to assist operators in their preparation. It too must be revised and submitted every five years, or earlier if a substantial change is required, to DECC for approval.

5 Relevant to this Plan, [the definition of an emergency under the Civil Contingencies Act 2004](#)^[1], includes an event or situation which threatens serious damage to human welfare in the UK, or an event or situation that threatens damage to the environment, which involves, causes or may cause contamination of land, water or air with biological, chemical or radioactive matter, or disruption or destruction of plant life or animal life”.

6 [The Civil Contingencies Act 2004](#)^[2] is primarily concerned with the need for organisations to prepare effectively for emergencies. Different arrangements apply in Scotland and Northern Ireland from those in England and Wales. The primary legislation, however, divides local responders into two categories, imposing a different set of duties on each. Category 1 responders are at the core of the response to most emergencies (e.g. emergency services, National Health Service (NHS), local authorities). They are required to assess the risk of emergencies; and put in place emergency plans, business continuity arrangements, and arrangements to warn, inform and advise the public in the event of an emergency.

7 Category 1 and Category 2 organisations (e.g. Health and Safety Executive, transport and utility companies, which are less likely to be involved in the heart of planning work) are required to share information and co-operate with other local responders to enhance co-ordination and efficiency.

8 Category 1 and 2 organisations come together to form local resilience forums (based on police areas) in England and Wales or regional resilience partnerships in Scotland (there is no equivalent statutory grouping in Northern Ireland), which will help support co-ordination and co-operation between responders at the local level.

9 The MCA, as a Category 1 Responder, undertakes its duty to plan for emergencies under the Act by maintaining a set of emergency plans, which are developed in conjunction with other Civil Contingencies Act responders, to ensure their overall effectiveness. The relevant plans are [the Major Incident Plans](#)^[3], and this National Contingency Plan for Marine Pollution from Shipping and Offshore Installations. The MCA fulfils its duty to co-operate, share information and prepare to

¹¹ <https://www.gov.uk/government/publications/contingency-planning-for-marine-pollution-preparedness-and-response-guidelines-for-ports>

¹²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/68974/opep-guidance.docx

^[1] <http://www.legislation.gov.uk/ukpga/2004/36/contents>

^[2] <http://www.legislation.gov.uk/ukpga/2004/36/schedule/1>

^[3] <https://www.gov.uk/government/publications/search-and-rescue-framework-uksar>

respond, by acting as the UK's competent authority for dealing with pollution at sea, and providing assistance, training and advice to local authorities with shore responsibilities.

10 Local authorities in England and Wales have a general power under [section 138 of the Local Government Act 1972](#)¹³, to incur expenditure in taking action with respect to emergencies or disasters. Local authorities in Scotland have similar powers under [the Local Government \(Scotland\) Act 1973](#)¹⁴.

11 In Northern Ireland, [the Water \(Northern Ireland\) Order 1999](#)¹⁵, places a duty on the Department of Environment to protect waterways from pollution. This includes coastal waters up to three nautical miles from the baseline. The legislation also gives the Department wide ranging powers to prevent or remove polluting matter where it considers appropriate. The Department prepares local response plans in the same way as local authorities do elsewhere in the United Kingdom.

12 Local authorities and DOE Northern Ireland have prepared, and implemented, local response plans based on these powers. The MCA advice is to revise these plans every five years or earlier if there is a substantial change. A review of plans should always be conducted after any incidents or exercises to capture lessons learned.

¹³ <http://www.legislation.gov.uk/ukpga/1972/70/contents>

¹⁴ http://www.legislation.gov.uk/ukpga/1973/65/pdfs/ukpga_19730065_en.pdf

¹⁵ <http://www.legislation.gov.uk/nisi/1999/662/contents/made>