STATUTORY INSTRUMENTS

2019 No. 160

MERCHANT SHIPPING

The Merchant Shipping (Technical Requirements for Inland Waterway Vessels) (Amendment) Regulations 2019

Made - - - -	*24th January 2019*
Laid before Parliament	*1st February 2019*
Coming into force - -	*23rd February 2019*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 85(1), (3) and (5) to (7) and 86(1) and (2) of the Merchant Shipping Act 1995(**1**) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**2**).

The Secretary of State has consulted the persons referred to in section 86(4) of the Merchant Shipping Act 1995.

The Secretary of State is a Minister designated(**3**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the safety of ships, and the health and safety of persons on them.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is necessary to revoke the provision which specifies that a reference to an Annex to Directive 2006/87/EC is to be construed as a reference to that Annex as amended from time to time.

Citation and commencement

1.—(1) These Regulations may be cited as the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) (Amendment) Regulations 2019.

(2) These Regulations come into force on 23rd February 2019.

(**1**) 1995 c.21. Section 85 was amended by the Merchant Shipping and Maritime Security Act 1997 (c.28), section 8 and Schedule 7 Part I. Sections 85 and 86 apply to hovercraft by virtue of the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350).

(**2**) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(**3**) S.I. 1993/595.

Amendment of Regulations

2. The Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010(**4**) are amended as follows.

3. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of "Directive 2006/87/EC"(**5**), substitute—

""Directive (EU) 2016/1629" means Directive (EU) 2016/1629 of the European Parliament and of the Council of 14th September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC(**6**),";

(ii) before the definition of "Government ship", insert—

""flag state", in relation to a vessel, means the state whose flag the vessel is entitled to fly,";

(iii) for the definition of "passenger vessel", substitute—

""passenger vessel" means a day trip or cabin vessel constructed and equipped to carry more than 12 passengers,"(**7**);

(iv) for the definition of "technical requirements of Annex II to Directive 2006/87/EC" and the word "and" immediately following it, substitute—

""technical requirements of Annex II" means the technical requirements contained in ES-TRIN standard 2017/1(**8**) as referred to in Annex II to Directive (EU) 2016/1629 and as set out in Merchant Shipping Notice MSN 1880(M) —

(a) excluding the transitional provisions contained in Chapter 32 of ES-TRIN standard 2017/1 for craft navigating on the Rhine, but

(b) including the transitional provisions contained in Chapter 33 of ES-TRIN standard 2017/1 for craft operating exclusively on waterways outside the Rhine,

"technical requirements of Annex V" means the technical requirements of Annex V to Directive (EU) 2016/1629 as set out in Merchant Shipping Notice MSN 1881(M), and".

(b) in paragraph (2)—

(i) for sub-paragraph (a), substitute—

"(a) a reference to a waterway which is—

(i) a Zone 1, 2 or 3 waterway is a reference to such a waterway as so classified by Article 4.1(a)(i) or (ii) of Directive (EU) 2016/1629,

(**4**) S.I. 2010/1075, amended by S.I. 2018/53.

(**5**) OJNo. L 389, 30.12.2006, p. 1.

(**6**) OJ No. L 252, 16.9.2016, p. 118 as last amended by Commission Delegated Directive (EU) 2018/970 of 18 April 2018 amending Annexes II, III and V to Directive (EU) 2016/1629 of the European Parliament and of the Council laying down technical requirements for inland waterway vessels (OJ No. L 174, 10.7.2018, p. 15). Added to Annex XIII to the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No. 155/2018 of 6th July 2018.

(**7**) See Article 3(f) of Directive (EU) 2016/1629.

(**8**) ES-TRIN standard 2017/1 is a European standard laying down technical requirements for inland navigation vessels produced by the European Committee for drawing up Standards in the field of Inland Navigation (CESNI). It can be accessed at https://www.cesni.eu/en/documents/es-trin-2017/ but is set out in full, including the two corrigenda to it, in MSN 1880(M) (over 500 pages).

(ii) a Zone 4 waterway is a reference to a waterway of category A (as categorised in Merchant Shipping Notice MSN 1837(M), Amendment 2),";

(ii) omit sub-paragraph (b);

(iii) in sub-paragraph (c) for "Directive 2009/100/EC", substitute "Directive 2009/100/EC(**9**)"; and

(iv) in sub-paragraph (d) for "Directive 2006/87/EC", substitute "Directive (EU) 2016/1629".

4. In regulation 3 (application), in paragraph (3)—

(a) at the end of sub-paragraph (b) omit "or";

(b) at the end of sub-paragraph (c) insert—

"; or

(d) in the case of a seagoing vessel which does not hold all the relevant Convention Certificates, the relevant certificates and the freeboard marks(**10**) required by the law of its flag state".

5. In regulation 4 (exemptions: vessels operating on waterways not linked to other Member States), in paragraph (1)(a), omit ", tugs, pushers".

6. In regulation 5 (exemptions: limited journeys of local interest or in harbour areas), in paragraph (2)(b) in each place where the word "Community" occurs, substitute "Union"(**11**).

7. For regulation 6 (obligation to carry a certificate), substitute—

"**6.**—(1) A vessel operating on a Zone 1, 2, 3 or 4 waterway must carry—

(a) a valid Union inland navigation certificate which attests compliance with the technical requirements of Annex II and the technical requirements of Annex V, or

(b) a valid certificate issued pursuant to Article 22 of the Revised Convention for Rhine Navigation(**12**).

(2) In addition to the certificates referred to in paragraph (1), a valid supplementary Union inland navigation certificate which attests compliance with the relevant additional United Kingdom technical requirements set out in paragraph (3) must be carried by—

(a) vessels operating on Zone 1 and 2 waterways, and

(b) passenger vessels operating on Zone 3 waterways.

(3) The relevant additional United Kingdom technical requirements referred to in paragraph (2) are—

(a) for vessels operating on Zone 1 and 2 waterways those—

(i) adopted in accordance with Article 23(1) of Directive (EU) 2016/1629,

(ii) notified to the Commission in accordance with Article 23(5) of that Directive, and

(iii) specified in Merchant Shipping Notice MSN 1879(M),

(**9**) OJ No. L 259, 2.10.2009, p. 8 as amended by Article 36 of Directive (EU) 2016/1629.

(**10**) See Article 2(2)(c) of Directive (EU) 2016/1629.

(**11**) See Articles 6 and 8 of Directive (EU) 2016/1629. Both Articles cross-refer to Annex II of that Directive which in turn refers to ES-TRIN standard 2017/1. The entire text of ES-TRIN standard 2017/1 is set out in Merchant Shipping Notice MSN 1880(M).

(**12**) The Revised Convention for Rhine Navigation signed at Mannheim on 17th October 1868, as set out in the text of 20th November 1963.

(b) for passenger vessels operating on Zone 3 waterways those—

(i) maintained in accordance with Article 23(2) of Directive (EU) 2016/1629,

(ii) notified to the Commission in accordance with Article 23(5) of that Directive, and

(iii) specified in Merchant Shipping Notice MSN 1879(M).”

8. Omit regulation 7 (reduced requirements for vessels operating only on Zone 4 waterways).

9. Omit regulation 8 (vessels carrying Rhine navigation certificates).

10. For regulation 9 (community inland navigation certificates and supplementary community inland navigation certificates) and the heading immediately preceding it, substitute–

“**Union inland navigation certificates and supplementary Union inland navigation certificates**

9.—(1) A valid Union inland navigation certificate is a certificate—

(a) in the form set out in section I of Annex 3 to ES-TRIN standard 2017/1 as set out in Merchant Shipping Notice MSN 1880(M), and

(b) issued by a competent authority of an EEA State in accordance with Directive (EU) 2016/1629 in respect of the waterway concerned.

(2) A valid supplementary Union inland navigation certificate is a certificate—

(a) in the form set out in section II of Annex 3 to ES-TRIN standard 2017/1 as set out in Merchant Shipping Notice MSN 1880(M), and

(b) issued by a competent authority of an EEA State in accordance with Directive (EU) 2016/1629 in respect of the waterway concerned.

(3) A valid supplementary Union inland navigation certificate must specify the additional technical requirements adopted, maintained, notified or amended in accordance with Article 23(1), (2) and (5) of Directive (EU) 2016/1629.”

11. In regulation 10 (recognition of navigability certificates of third countries), in paragraph (b), for the word “Community” substitute “supplementary Union”.

12. In regulation 12 (inspection and remedial measures), for paragraph (1) substitute—

“(1) An inspector may check at any time whether a vessel to which these Regulations apply—

(a) is carrying—

(i) a valid Union inland navigation certificate and, in the relevant circumstances, a valid supplementary Union inland navigation certificate, or

(ii) a valid certificate issued pursuant to Article 22 of the Revised Convention for Rhine Navigation and, in the relevant circumstances, a valid supplementary Union inland navigation certificate,

(b) satisfies the requirements set out in such a certificate or certificates,

(c) constitutes a manifest danger for the persons on board, the environment or the navigation.

(1A) The relevant circumstances referred to in paragraph (1)(a) are that the vessel is—

(a) operating on Zone 1 and 2 waterways, or

(b) a passenger vessel operating on Zone 3 waterways.”

13. After regulation 14 (amendment of regulations) insert—

"**Transitional provision**

15.—(1) A Community inland navigation certificate or supplementary Community inland navigation certificate issued in accordance with Directive 2006/87/EC before 6th October 2016 shall remain valid until it expires.

(2) In this regulation, "Directive 2006/87/EC" means Directive 2006/87/EC dated 12th December 2006 of the European Parliament and of the Council laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC(**13**), as amended by—

(a) Directive 2006/137/EC dated 18th December 2006 of the European Parliament and of the Council amending Directive 2006/87/EC laying down technical requirements for inland waterway vessels(**14**),

(b) Directive 2008/59/EC dated 12th June 2008 of the European Parliament and of the Council adapting Directive 2006/87/EC of the European Parliament and of the Council laying down technical requirements for inland waterway vessels, by reason of the accession of the Republic of Bulgaria and Romania(**15**),

(c) Directive 2008/68/EC dated 24th December 2008 of the European Parliament and of the Council on the inland transport of dangerous goods(**16**), and

(d) Commission Directive 2008/87/EC dated 22nd September 2008(**17**), Commission Directive 2008/126/EC dated 19th December 2008(**18**) and Commission Directive 2009/46/EC dated 24th April 2009(**19**), each amending Directive 2006/87/EC of the European Parliament and of the Council laying down technical requirements for inland waterway vessels."

14. In Schedule 1 (recognition of navigability licences)—

(a) in paragraph 1(a), for "1805" substitute "1894";

(b) in paragraph 1(b)—

(i) in paragraph (i), for "Directive 2009/100/EC" substitute "Directive 2009/100/EC(**20**)";

(ii) in paragraph (ii), for "Rhine Vessels Inspection Regulations as referred to in Article 1 of Directive 2009/100/EC" substitute "Rhine Vessel Inspection Regulations(**21**) as referred to in Article 1 of Directive 2009/100/EC"; and

(iii) in paragraph (iii), for "Agreement on transport of dangerous goods on the Rhine as referred to in Article 1 of Directive 2009/100/EC" substitute "European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways(**22**) as referred to in Article 1 of Directive 2009/100/EC"; and

(**13**) OJ No. L 389, 30.12.2006, p.1. Added to Annex XIII to the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No. 89/2007 of 6th July 2007 (O.J. No. L 328, 13.12.2007, p.36).

(**14**) OJ No. L 389, 30.12.2006, p.261. Added to Annex XIII to the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No. 89/2007 of 6th July 2007 (O.J. No. L 328, 13.12.2007, p.36).

(**15**) OJ No. L 166, 27.6.2008, p.31.

(**16**) OJ No. L 260, 30.9.2008, p.13. Added to Annex XIII to the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No. 97/2009 of 25th September 2009 (O.J. No. L 304, 19.11.2009, p.10).

(**17**) OJ No. L 255, 23.9.2008, p.5. Added to Annex XIII to the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No. 13/2009 of 5th February 2009 (O.J. No. L 73, 19.11.2009, p.49).

(**18**) OJ No. L 32, 31.1.2009, p.1.

(**19**) OJ No. L 109, 30.4.2009, p.14.

(**20**) OJ No. L 259, 2.10.2009, p. 8 as amended by Article 36 of Directive (EU) 2016/1629.

(**21**) 2017, issued by the Central Commission for the Navigation on the Rhine.

(**22**) 2017, issued by the United Nations Economic Commission for Europe.

(c) in paragraph 2, omit “, other than a maritime shipping lane of the United Kingdom which is specified in Merchant Shipping Notice 1805 and has been notified to the European Commission”.

Signed by authority of the Secretary of State for Transport

Nusrat Ghani
Parliamentary Under Secretary of State
Department for Transport

24th January 2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive (EU) 2016/1629 of the European Parliament and of the Council of 14th September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC ("the Directive").

The Regulations make a number of amendments to the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010 (S.I. 2010/1075) ("the 2010 Regulations").

Regulation 3 amends regulation 2 (interpretation) of the 2010 Regulations in accordance with Articles 3 and 4 of the Directive.

Regulation 4 amends regulation 3 (application) of the 2010 Regulations by expanding the list of relevant certificates in paragraph (3).

Regulation 5 amends regulation 4 (exemptions: vessels operating on waterways not linked to other Member States) to limit the vessels to which exemptions may be granted by the Secretary of State.

Regulation 6 amends regulation 5 (exemptions: limited journeys of local interest or in harbour areas) of the 2010 Regulations to update references to navigation certificates.

Regulation 7 substitutes regulation 6 (obligation to carry a certificate) in the 2010 Regulations to make provision requiring vessels to carry either a valid Union inland navigation certificate or a valid certificate issued pursuant to Article 22 of the Revised Convention for Rhine Navigation and, in the case of vessels operating on Zone 1 and 2 waterways and passenger vessels operating on Zone 3 waterways, a valid supplementary Union inland navigation certificate.

Regulation 8 omits regulation 7 (reduced requirements for vessels operating only on Zone 4 waterways) of the 2010 Regulations.

Regulation 9 omits regulation 8 (vessels carrying Rhine navigation certificates) of the 2010 Regulations.

Regulation 10 substitutes regulation 9 (community inland navigation certificates and supplementary community inland navigation certificates) of the 2010 Regulations and sets out the requirements for Union inland navigation certificates and supplementary Union inland navigation certificates.

Regulation 11 amends regulation 10 (recognition of navigability certificates of third countries) of the 2010 Regulations to update references from "Community inland navigation certificate" to "supplementary Union inland navigation certificate".

Regulation 12 amends regulation 12 (inspection and remedial measures) of the 2010 Regulations to update the references to the certificates which an inspector may check.

Regulation 13 inserts a new provision, regulation 15 (transitional provision), into the 2010 Regulations which provides for Community inland navigation certificates and supplementary Community inland navigation certificates issued in accordance with Directive 2006/87/EC before 6th October 2016 to remain valid until they expire.

Regulation 14 amends Schedule 1 (recognition of navigability licences) to the 2010 Regulations to update the references to the Rhine Vessels Inspection Regulations and Agreement on transport of dangerous goods on the Rhine.

The Revised Convention for Rhine Navigation ("the Convention") and the Rhine Vessel Inspection Regulations ("the RVIR") may be consulted and are available to download at the official website of the Central Commission for the Navigation of the Rhine (https://www.ccr-zkr.org/13020300-

en.html#011 for the Convention and https://www.ccr-zkr.org/13020500-en.html#05 for the RVIR). The Convention is available in English and the RVIR are available in Dutch, German and French. An English version of the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways ("the ADN") may be consulted and downloaded from the website for the United Nations Economic Commission for Europe ("UNECE") (http://www.unece.org/trans/danger/publi/adn/adn2017/17files_e0.html). A hard copy of the English version of the ADN may be purchased from the UNECE shop (https://shop.un.org/books/eur-agrmt-intl-carr-adn-2017-52024). Hard copies of the English version of the Convention, the Dutch, German and French versions of the RVIR and the English version of the ADN are available for inspection free of charge but by appointment at the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton, SO15 1EG.

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An impact assessment of the effect of these Regulations on the cost to business is published with the Explanatory Memorandum and Transposition Note alongside this instrument on www.legislation.gov.uk.