

*Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2019 No. 0000**

**EXITING THE EUROPEAN UNION  
MERCHANT SHIPPING**

**The Merchant Shipping (Passengers' Rights)  
(Amendment etc.) (EU Exit) Regulations 2019**

*Made - - - - 2019*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

**PART 1**

Introduction

**Citation and commencement**

**1.** These Regulations may be cited as the Merchant Shipping (Passengers' Rights) (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day.

## PART 2

### Amendment of subordinate legislation

#### **Amendment of the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999**

2.—(1) The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999(2) are amended as follows.

(2) In regulation 6 (additional requirements for voyages of more than 20 miles), in paragraph 1(a)—

- (a) in paragraph (i), after “European Union”, insert “or the United Kingdom”; and
- (b) in paragraph (ii), for “territory of the European Union”, substitute “territory comprising the European Union and the United Kingdom”.

(3) In regulation 7 (non-Community ships on voyages from outside the European Union to the United Kingdom)—

- (a) for the heading, substitute “Ships which are on voyages from outside the European Union and the United Kingdom and are neither Community Ships nor United Kingdom ships”;
- (b) after “Community ship”, add “, nor a United Kingdom passenger ship,”; and
- (c) for “territory of the European Union”, substitute “territory comprising the European Union and the United Kingdom”.

(4) In regulation 9 (exemptions), in paragraph (2)(b)(i), after “European Union” add “or the United Kingdom”.

#### **Amendment of the Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012**

3.—(1) The Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012(3) are amended as follows.

- (2) In regulation 6 (insurance certificates), omit paragraph (2)(d).
- (3) In regulation 15 (review), omit paragraph (2).

#### **Amendment of the Merchant Shipping (Passengers' Rights) Regulations 2013**

4.—(1) The Merchant Shipping (Passengers' Rights) Regulations 2013(4) are amended as follows.

- (2) In regulation 11 (review), omit paragraph (2).

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(2) S.I. 1999/1869, amended by S.I.2010/1075, S.I. 2010/680, and S.I. 2011/1043.

(3) S.I. 2012/3152.

(4) S.I. 2013/425.

## PART 3

### Amendment and revocation of retained direct EU legislation

#### Revocation of Council Decision 2002/762/EC

5. Council Decision 2002/762/EC of 19 September 2002 authorising the Member States, in the interest of the Community, to sign, ratify or accede to the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001<sup>(5)</sup> is revoked.

#### Amendment of Regulation (EC) No 392/2009

6.—(1) Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents<sup>(6)</sup> is amended as follows.

- (2) In Article 1 (subject matter)—
  - (a) in paragraph 1—
    - (i) in the first paragraph, omit “Community”; and
    - (ii) in subparagraph (a), for “Annex I”, substitute “Part 1 of Schedule 6 to the Merchant Shipping Act 1995<sup>(7)</sup>”;
  - (b) in paragraph 2, for “a single Member State”, substitute “the United Kingdom”; and
  - (c) omit paragraph 3.
- (3) In Article 2 (scope)—
  - (a) in the first paragraph, for “a single Member State”, substitute “the United Kingdom”;
  - (b) in points (a), (b) and (c), omit “a Member State” in each place that it appears and substitute “the United Kingdom”; and
  - (c) omit the words “Member States may apply this Regulation to all domestic seagoing voyages.”.
- (4) In Article 3 (liability and insurance), in paragraph 1, omit “16 and Articles”.
- (5) In Article 6 (advance payment), in paragraph 1—
  - (a) for “EUR 21,000”, substitute “£18,500”; and
  - (b) in the second paragraph, for “Community”, substitute “United Kingdom”.
- (6) In Article 7 (information to passengers)—
  - (a) at the beginning of the first paragraph, omit the words from “Without prejudice” to “package tours.”;
  - (b) in the second paragraph, for “a Member State”, on both occasions it appears, substitute “the United Kingdom”; and
  - (c) omit the third paragraph.
- (7) Omit Article 8 (reporting).
- (8) In Article 9 (amendments)—
  - (a) in paragraph 1—

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<sup>(5)</sup> OJ No. L 256, 25.9.2002, p. 7.

<sup>(6)</sup> OJ No. L 131, 28.5.2009, p. 24.

<sup>(7)</sup> 1995 c. 21. Part 1 of Schedule 6 was substituted by S.I. 2014/1361.

- (i) in the first paragraph, for “Measures designed”, substitute “The Secretary of State may make regulations”;
- (ii) in the first paragraph, omit the words from “, shall be adopted” to the end of the paragraph; and
- (iii) omit the second paragraph; and
- (b) in paragraph 2—
  - (i) for “Measures designed”, substitute “The Secretary of State may make regulations”; and
  - (ii) omit the words from “shall be adopted” to the end of the paragraph.
- (9) In Article 10 (committee procedure)—
  - (a) for the title, substitute “Regulations”;
  - (b) for paragraph 1, substitute “Any power of the Secretary of State to make regulations is exercisable by statutory instrument.”; and
  - (c) for paragraph 2, substitute “Any statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (10) Omit Articles 11 (transitional provisions) and 12 (entry into force).
- (11) Omit Annex I.

#### **Amendment of Regulation (EU) No 1177/2010**

7.—(1) Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004<sup>(8)</sup> is amended as follows.

- (2) In Article 2 (scope)—
  - (a) in paragraph 1—
    - (i) for “territory of a Member State”, wherever it appears, substitute “United Kingdom”; and
    - (ii) in point (b), for “Union carrier”, substitute “United Kingdom carrier”;
  - (b) omit paragraphs 3 and 4; and
  - (c) in paragraph 5, for the words “[Directive 2006/87/EC](#) and to [Directive 2009/45/EC](#)”, substitute “the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010<sup>(9)</sup>”.
- (3) In Article 3 (definitions)—
  - (a) omit point (b);
  - (b) for point (e), substitute—
    - “(e) ‘United Kingdom carrier’ means a carrier established within the United Kingdom or offering transport by passenger services operated to or from the United Kingdom;”;
  - (c) in point (q), for “Article 2(2) and (3) of [Directive 90/314/EEC](#)”, substitute “regulation 2(1) of the Package Travel and Linked Travel Arrangements Regulations 2018<sup>(10)</sup>”; and
  - (d) in point (s), for “territory of a Member State”, substitute “United Kingdom”.

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<sup>(8)</sup> OJ No. L 334, 17.12.2010, p. 1.

<sup>(9)</sup> [S.I. 2010/1075](#), to which there are amendments not relevant to these regulations.

<sup>(10)</sup> [S.I. 2018/634](#).

- (4) In Article 4 (tickets and non-discriminatory contract conditions)—
- (a) in paragraph 1, for “national law”, substitute “any enactment or rule of law”; and
  - (b) in paragraph 2, omit the words from “or on the place” to the end of the paragraph.
- (5) In Article 8 (exceptions and special conditions), in paragraph (1)(a), for “, Union or national law”, substitute “law, or any enactment or rule of law,”.
- (6) In Article 9 (accessibility and information), in paragraph 1, for “national enforcement bodies”, substitute “the body designated under regulation 8 of the Merchant Shipping (Passengers’ Rights) Regulations 2013”.
- (7) In Article 11 (conditions under which assistance is provided), in paragraph 5, omit “national”.
- (8) In Article 17 (assistance in the event of cancelled or delayed departures), in paragraph 2, for “EUR 80”, substitute “£70”.
- (9) In Article 19 (compensation of the ticket price in the event of delay in arrival), in paragraph 6, for “EUR 6”, substitute “£5”.
- (10) In Article 21 (further claims)—
- (a) for “national law”, substitute “any enactment or rule of law”;
  - (b) for “national courts”, substitute “courts of the United Kingdom”; and
  - (c) for “[Directive 90/314/EEC](#)”, substitute “the Package Travel and Linked Travel Arrangements Regulations 2018”.
- (11) In Article 23 (information on passenger rights)—
- (a) in paragraph 2, for the words “Commission in all the official languages of the institutions of the European Union”, substitute, “body designated under regulation 8 of the Merchant Shipping (Passengers’ Rights) Regulations 2013”; and
  - (b) in paragraph 3, for the words “by the Member State concerned pursuant to Article 25(1)”, substitute “under regulation 8 of the Merchant Shipping (Passengers’ Rights) Regulations 2013”.
- (12) For Article 25 (national enforcement bodies), substitute—

*“Article 25*

*Enforcement bodies*

**1.** Regulation 8 of the Merchant Shipping (Passengers’ Rights) Regulations 2013 designates the body responsible for the enforcement of this Regulation.

**2.** Any passenger may submit a complaint about an alleged infringement of this Regulation to the body designated under regulation 8 of the Merchant Shipping (Passengers’ Rights) Regulations 2013. That body must provide passengers with a substantiated reply to their complaint within a reasonable period of time, under the provisions in Article 24.

**3.** The passenger must, as a first step, submit the complaint covered by this Regulation to the carrier or terminal operator. The body designated under regulation 8 of the Merchant Shipping (Passengers’ Rights) Regulations 2013 is the appeal body for complaints not resolved under Article 24.”

(13) In Article 26 (report on enforcement), for the words “bodies designated pursuant to Article 25 shall publish a report on their”, substitute “body designated under regulation 8 of the Merchant Shipping (Passengers’ Rights) Regulations 2013 must publish a report on its”.

(14) Omit Article 27 (cooperation between enforcement bodies).

(15) For Article 28 (penalties), substitute—

“The Merchant Shipping (Passengers’ Rights) Regulations 2013 lay down rules on penalties applicable to the infringement of the provisions of this Regulation.”.

(16) Omit Articles 29 (report) and 31 (entry into force).

(17) After Article 31 (entry into force), omit the paragraph beginning with the words “This Regulation shall be”.

(18) In Annex I (right to reimbursement or re-routing for disabled persons and persons with reduced mobility as referred to in Article 8), in paragraph 2, for “[Directive 90/314/EEC](#)”, substitute “the Package Travel and Linked Travel Arrangements Regulations 2018”.

(19) In Annex III (assistance on board ships as referred to in Articles 10 and 13), in paragraph 1, for “national regulations”, substitute “any enactment or rule of law”.

#### **Revocation of Council Decisions 2012/22/EU and 2012/23/EU**

8. The following are revoked—

- (a) Council [Decision 2012/22/EU](#) of 12 December 2011 concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, with the exception of Articles 10 and 11 thereof<sup>(11)</sup>; and
- (b) Council [Decision 2012/23/EU](#) of 12 December 2011 concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as regards Articles 10 and 11 thereof<sup>(12)</sup>.

## PART 4

### Transitional Provision

#### **Insurance certificates issued by EU Member States**

9.—(1) An insurance certificate that is issued, before exit day, by or under the authority of a Member State that is not a State Party will be accepted as evidence of the insurance required by regulation 5 of the Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012 (“the 2012 Regulations”).

(2) In this regulation—

- (a) “insurance certificate” means a certificate in the form prescribed in regulation 6(1) of the 2012 Regulations; and
- (b) “State Party” has the same meaning as in the 2012 Regulations.

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<sup>(11)</sup> OJ No. L 8, 12.1.2012, p. 1.

<sup>(12)</sup> OJ No. L 8, 12.1.2012, p. 13.

Signed by authority of the Secretary of State for Transport

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Transport

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation in the field of maritime passengers' rights and, in particular, amend legislation relating to ticketing, liability for accidents, compensation for delay and cancellations, assistance for people with reduced mobility. They also revoke legislation in relating to pollution damage from bunker oil.

Part 2 amends the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999 (S.I. 1999/1869), the Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012 (S.I. 2012/3152) ("the 2012 Regulations"), and the Merchant Shipping (Passengers' Rights) Regulations 2013 (S.I. 2013/425). These amendments are consequential to amendments being made in Part 3.

Part 3 revokes Council Decision 2002/762/EC which authorised the accession to International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001. It amends Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accident and revokes Council Decisions 2012/22/EU and 2012/23/EU which relate to that Regulation. It also amends Regulation (EU) No. 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway.

Part 4 makes consequential provision in relation to the operation of the 2012 Regulations.

An 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 has been published alongside these Regulations and is available with these Regulations at [www.legislation.gov.uk](http://www.legislation.gov.uk).