

2021 No. 1316

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Radiocommunications) (Amendment)
Regulations 2021**

<i>Made</i> - - - -	<i>29th November 2021</i>
<i>Laid before Parliament</i>	<i>2nd December 2021</i>
<i>Coming into force</i> - -	<i>24th December 2021</i>

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The Secretary of State, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995(a), and in exercise of the powers conferred by sections 85(1), (3)(a), (c), (d), (e), (f), (h), (k), (l), (n), (o), (p) and (q) and (5) to (7), 86(1)(a), (b), (c) and (d), 302(1) and 306A of that Act, and with the consent of the Treasury, makes the following Regulations.

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 and come into force on 24th December 2021.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Amendments

2. The amendments listed in Schedule 1 have effect.

Interpretation

3. In these Regulations—

“cargo ship” means a ship which is not a passenger ship;

“Chapter IV” means Chapter IV in the Annex to the Convention (relating to radiocommunications)(b);

“Convention” means the International Convention for the Safety of Life at Sea, 1974(c);

(a) 1995 c. 21. Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7. Section 85 was amended by the British Overseas Territories Act 2002 (c. 8), section 2(3). Section 306A was inserted by the Deregulation Act 2015 (c. 20), section 106. There are other amendments but none is relevant.

(b) Chapter IV in the Annex to the Convention (see footnote (c)) has been amended by International Maritime Organization (IMO) Resolutions MSC.1(45), MSC.6(48) (Cm 3927), MSC.13(57), MSC.27(61), MSC.69(69) (Cm 5771), MSC.123(75) (Cm 6587), MSC.152(78) (Cm 7205), MSC.201(81), MSC.256(84) and MSC.436(99). The amendments to Chapter IV are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>).

(c) Cmnd 7874. The Convention may be obtained in copy from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=79786>). The Convention was modified by its Protocol of 1978 (Cmnd. 8277) (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=68013>), which was replaced and abrogated by the Protocol of 1988 (Cm 5044) (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=69573>) with respect to the parties to the 1988 Protocol. The amendments to the Convention are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>). Hard copies of the Command Papers are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW.

“fishing vessel” means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;

“gross tonnage” means gross tonnage as determined in accordance with regulation 6 or 12(1) of the Merchant Shipping (Tonnage) Regulations 1997(a);

“international voyage” means a voyage between—

- (a) a port in the United Kingdom and a port outside the United Kingdom; or
- (b) a port in a Convention country other than the United Kingdom and a port in any other country or territory, whether a Convention country or not, which is outside the United Kingdom,

and, for the purposes of paragraph (b), “Convention country” means a country or territory which is either a country the Government of which is party to the Convention or a territory to which the Convention extends whether or not it is subject to the amendments to, or reservations in respect of, the Convention;

“Marine Guidance Note” means a note described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport) and includes a reference to any document amending or replacing that note which is considered by the Secretary of State to be relevant from time to time and is specified in a Marine Guidance Note;

“Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport) and includes a reference to any document amending or replacing that notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“non-United Kingdom ship” means any ship other than a United Kingdom ship;

“passenger” is a person other than—

- (a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and
- (b) a child under one year of age;

“passenger ship” is a ship which carries more than 12 passengers;

“pleasure vessel” means—

- (a) any vessel which at the time it is being used is—
 - (i) in the case of a vessel wholly owned by—
 - (aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
 - (bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and
 - (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
- (b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

The Parliamentary Archives catalogue numbers for the Command Papers are HL/PO/JO/10/11/2031/2878 (Cmnd 7874), HL/PO/JO/10/11/1959/2032 (Cmnd 8277) and HL/PO/JO/10/11/3156/2280 (Cm 5044).

(a) S.I. 1997/1510, amended by S.I. 1998/1916, 1999/3206 and 2020/362; there are other amending instruments but none is relevant.

where, in the case of any vessel referred to in paragraphs (a) or (b), no other payments are made by or on behalf of users of the vessel, other than by the owner; and in this definition “immediate family” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual’s spouse or civil partner; and “relative” means brother, sister, ancestor or lineal descendant;

“radio installation” means any radio installation provided on board a ship in compliance with Chapter IV, including its associated antennas, interconnecting circuits and, where appropriate, sources of electrical energy;

“Radio Regulations” means the Radio Regulations(a) annexed to, or regarded as being annexed to, the Constitution and Convention of the International Telecommunication Union, 1992(b);

“sea area A2”, “sea area A3”, and “sea area A4” have the same meaning as in regulation 2.1 of Chapter IV.

Application

4.—(1) Subject to paragraph (2), these Regulations apply to—

- (a) United Kingdom ships, wherever they may be; and
- (b) non-United Kingdom ships while they are within United Kingdom waters.

(2) These Regulations do not apply to—

- (a) ships of war or naval auxiliaries;
- (b) ships owned or operated by a State and engaged only on governmental non-commercial service;
- (c) cargo ships of less than 300 gross tonnage;
- (d) ships not propelled by mechanical means;
- (e) wooden ships of primitive build;
- (f) pleasure vessels;
- (g) fishing vessels;
- (h) ships to which the Merchant Shipping (Radio Installations) Regulations 1998(c) apply;
- (i) ships to which the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000(d) apply;
- (j) ships to which the Merchant Shipping (High Speed Craft) Regulations 2004(e) apply;
- (k) ships while being navigated within the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of St. Lambert Lock in Montreal in the Province of Quebec, Canada.

(3) A non-United Kingdom ship flying the flag of a State which is not a party to the Convention is not subject to these Regulations if it would not have been in United Kingdom waters but for

(a) The Radio Regulations are made at a World Radio-communication Conference in accordance with Article 13 of the Convention of the International Telecommunication Union; the existing Radio Regulations were published in 2016 and found on the International Telecommunications Union website at <https://www.itu.int/pub/R-REG-RR-2016>. Chapter IX of the Radio Regulations contains provision governing maritime services; article 47 contains provision in relation to operator’s certificates.

(b) Cm 3145. The Constitution and Convention and their amendments may be found on the International Telecommunications Union website at <https://www.itu.int/en/history/Pages/ConstitutionAndConvention.aspx>. or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=71971>). The Constitution and Convention were amended in 1994 (Cm 3779) (<http://foto.archivalware.co.uk/data/Library2/pdf/1997-TS0065.pdf>), 1998 (Cm 9512), 2002 (Cm 9513), 2006 (Cm 9514) and 2010 (Cm 9515).

(c) S.I. 1998/2070, amended by S.I. 2000/2687, 2004/302, 2016/1025 and this instrument; there are other amending instruments but none is relevant.

(d) S.I. 2000/2687, amended by S.I. 2004/302, 2010/680, 2010/1075, 2012/2636, 2018/1221 and 2020/1222; there are other amending instruments but none is relevant.

(e) S.I. 2004/302, amended by S.I. 2012/2636 and 2020/1222; there are other amending instruments but none is relevant.

stress of weather or any other circumstances which neither the master nor the owner or the charterer could have prevented.

(4) Where persons are on board a ship as a consequence of—

- (a) the circumstances described in paragraph (3); or
- (b) an obligation laid upon the master to carry shipwrecked or other persons^(a),

those persons are not to be taken into account for the purpose of determining the application to that ship of any provision of these Regulations.

(5) Nothing in these Regulations prohibits any ship, survival craft or person in distress from using any means at their disposal to attract attention, make known their position or obtain help.

Exemptions

5.—(1) The Secretary of State may grant an exemption from any provision of Chapter IV—

- (a) a ship which does not normally engage on international voyages but is, in exceptional circumstances, required to undertake a single international voyage;
- (b) a ship which embodies features of a novel kind if research into the development of those features and their incorporation in ships engaged on international voyages may be seriously impeded if the ship had to comply with the requirements of Chapter IV.

(2) Subject to paragraph (11), the Secretary of State may exempt from the requirements of regulations 7.1.1.1 and 7.1.2 of Chapter IV a ship which—

- (a) was constructed before 1st February 1997; and
- (b) is engaged exclusively on voyages within—
 - (i) sea area A2;
 - (ii) sea areas A2 and A3; or
 - (iii) sea areas A2, A3 and A4,

provided that the ship maintains, when practicable, a continuous listening watch on VHF channel 16 at the position from which the ship is normally navigated.

(3) The Secretary of State may, in exceptional circumstances not provided for in paragraph (1), grant an exemption from any provision of Chapter IV in respect of a ship or class of ship if satisfied that compliance with such provision is either impracticable or unreasonable in the case of that ship or class of ship.

(4) Subject to paragraph (5), the Secretary of State may, having taken into account the effect of an exemption on the general efficiency of the service for the safety of all ships, grant an exemption from the requirements of regulations 7 to 11 of Chapter IV in respect of a ship provided the functional requirements of regulation 4 of Chapter IV are satisfied in respect of that ship.

(5) An exemption under paragraph (4) may be granted only—

- (a) if the conditions affecting safety are such as to render the full application of regulations 7 to 11 of Chapter IV unreasonable or unnecessary; or
- (b) in exceptional circumstances, in respect of a single voyage outside the sea area or areas for which the ship is equipped.

(6) An exemption under paragraph (1), (2), (3) or (4) may be granted subject to such safety requirements as the Secretary of State thinks fit to ensure the overall safety of the ship.

(7) An exemption granted under paragraph (1), (2), (3) or (4), on the giving of reasonable notice, may be altered or cancelled.

(8) An exemption granted under paragraph (1), (2), (3) or (4), or an alteration or cancellation under paragraph (7), must—

^(a) Regulation 33 in Chapter V of the Convention (safety of navigation) places an obligation on the master to provide assistance to persons in distress at sea and this obligation is implemented in the Merchant Shipping (Safety of Navigation) Regulations 2020 (S.I. 2020/673).

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) specify the terms, if any, on which it is given.

(9) The requirement that an exemption granted under paragraph (1), (2), (3) or (4), or an alteration or cancellation under paragraph (7), be in writing is satisfied where the text of the exemption, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

(10) Where an exemption is granted subject to safety requirements under paragraph (6), the exemption ceases to have effect if those requirements are not complied with.

(11) No exemption may be granted under paragraph (2) after 31st December 2023.

Equivalentents

6.—(1) Where a provision of Chapter IV requires that—

- (a) a particular radiocommunications appliance or type of radiocommunications appliance, which may include any fitting, material or apparatus, be fitted on, or carried in, a ship;
- (b) any particular radiocommunications arrangement be made on, or in relation to, a ship; or
- (c) any particular provision be made in relation to a ship,

the Secretary of State may approve any other radiocommunications appliance, radiocommunications arrangement or other provision if satisfied that it is as least as effective as that required by Chapter IV.

(2) An approval given under paragraph (1) may, on the giving of reasonable notice, be continued, altered or cancelled.

(3) Any approval given under paragraph (1), or a continuation, alteration or cancellation under paragraph (2), must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) specify the terms, if any, on which it is given.

(4) The requirement that the approval referred to in paragraph (1), or a continuation, alteration or cancellation under paragraph (2), be in writing is satisfied where the text of the approval is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

Ambulatory reference

7.—(1) In these Regulations, any reference to Chapter IV, or Article 47 of the Radio Regulations, is to be construed—

- (a) as a reference to Chapter IV, or Article 47 of the Radio Regulations, as modified from time to time; and
- (b) as, if Chapter IV, or Article 47 of the Radio Regulations, is replaced, a reference to the replacement.

(2) For the purposes of paragraph (1), Chapter IV, or Article 47 of the Radio Regulations, is modified or replaced if the modification or replacement takes effect—

- (a) in relation to Chapter IV, in accordance with Article VIII of the Convention;

- (b) in relation to Article 47 of the Radio Regulations, in accordance with Article 54 of the Constitution of the International Telecommunication Union.
- (3) A modification or replacement of Chapter IV or Article 47 of the Radio Regulations has effect at the time such modification or replacement comes into force—
- (a) in relation to Chapter IV, in accordance with Article VIII of the Convention;
 - (b) in relation to Article 47 of the Radio Regulations, in accordance with Article 54 of the Constitution of the International Telecommunication Union.

PART 2

Ship Requirements

Functional requirements

8. A ship, while at sea, must comply with each requirement in regulation 4 of Chapter IV.

PART 3

Requirements relating to Radio Installations, Equipment etc.

Performance standards

9. All radio equipment fitted on or carried in a ship must—
- (a) in relation to a United Kingdom ship, unless approved in accordance with the Merchant Shipping (Marine Equipment) Regulations 2016(a), be of a type approved by the Secretary of State or any person authorised by the Secretary of State; or
 - (b) in relation to a non-United Kingdom ship, must conform to standards not inferior to those set out in Section 5 of Annex 1 to Merchant Shipping Notice 1874 (M+F) Amendment 4(b).

Radio installations and equipment

10. A ship must comply with each of the requirements in the following provisions of Chapter IV applicable to that ship—

- (a) regulation 6 (radio installations);
- (b) regulation 7 (radio equipment: general);
- (c) regulation 8 (radio equipment: sea area A1);
- (d) regulation 9.1 to 9.3 (radio equipment: sea areas A1 and A2);
- (e) regulation 10.1 to 10.3 (radio equipment: sea areas A1, A2 and A3);
- (f) regulation 11.1 (radio equipment: sea areas A1, A2, A3 and A4).

Watches, maintenance requirements, radio personnel and records etc.

11.—(1) A ship must comply with each of the requirements in the following provisions of Chapter IV applicable to that ship—

-
- (a) S.I. 2016/1025, amended by S.I. 2019/470, 2019/1304 and 2020/1000; there are other amending instruments but none is relevant.
 - (b) The standards are set out in column 2 of section 5 of Annex 1 of Merchant Shipping Notice 1874 (M+F) Amendment 4, which is available on <https://www.gov.uk/government/publications/msn-1874mf-amendment-4-marine-directive-other-approval-and-standards> and in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mca.gov.uk).

- (a) regulation 12 (watches);
- (b) regulation 13 (sources of energy);
- (c) regulation 15.1 to 15.4 and 15.6, 15.7 and 15.9.2 (maintenance requirements);
- (d) regulation 16 (radio personnel);
- (e) regulation 17 (radio records);
- (f) regulation 18 (position-updating).

(2) For the purposes of regulation 15.3 of Chapter IV, accepted methods are those listed in paragraph 6.7 of Marine Guidance Note 641(a).

(3) For the purposes of regulation 17 of Chapter IV, a GMDSS radio log must be maintained on the ship.

- (4) In this regulation, a “GMDSS radio log” means a document for keeping a record of—
- (a) communications relating to distress, urgency and safety traffic and the time such communications occurred;
 - (b) important incidents connected with the radio service and the time such incidents occurred;
 - (c) the position of the ship at least once a day and the time at which the ship was in that position.

Testing of equipment

- 12.—(1) This regulation applies to a person who—
- (a) holds an operator certificate of a type described in Articles 47.20 to 47.23 of the Radio Regulations; and
 - (b) has been designated by the master to carry out tests on radio equipment.
- (2) A person to whom this regulation applies must—
- (a) carry out the tests specified in paragraph (3); and
 - (b) inform the master if any radio equipment required by these Regulations is not in working order.
- (3) The specified tests are—
- (a) the tests specified in regulation 15.9.1 of Chapter IV; and
 - (b) in relation to a United Kingdom ship, the tests specified in Schedule 2.

PART 4

Control and enforcement

Offences and penalties

13.—(1) If a ship proceeds or attempts to proceed to sea or on any voyage, or arrives within United Kingdom waters, in breach of any of the requirements of these Regulations, the owner and the master are each guilty of an offence in respect of each case of non-compliance.

- (2) A person to whom regulation 12 applies who fails to—
- (a) carry out the specified tests in regulation 12(3), or
 - (b) inform the master if any radio equipment required by these Regulations is not in working order,

(a) Marine Guidance Note (MGN) 641(M) is available on <https://www.gov.uk/government/collections/marine-guidance-notices-mgns> and in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mca.gov.uk).

is guilty of an offence in respect of each case of non-compliance.

(3) An offence under paragraph (1) or (2) is punishable—

(a) on summary conviction—

(i) in England and Wales by a fine; or

(ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or

(b) on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

(4) It is a defence for a person charged with an offence under this regulation to prove that the person charged took all reasonable steps to avoid the commission of the offence.

Detention

14.—(1) For the purposes of this regulation, any reference to “the Act” is a reference to the Merchant Shipping Act 1995.

(2) Subject to paragraph (10), a ship which does not comply with a requirement in these Regulations or a provision of Chapter IV referred to in regulation 10 or 11 may be detained.

(3) Section 284 of the Act (a) applies where a ship is liable to be detained under this regulation as if—

(a) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and

(b) subsection (7) were omitted.

(4) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—

(a) states the grounds of the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(5) Subject to paragraph (6), section 96 (references of detention notices to arbitration) (b) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 (power to detain dangerously unsafe ship).

(6) For the purposes of paragraph (5)—

(a) section 96 of the Act applies as if—

(i) subsection (3) were omitted;

(ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;

(iii) subsection (11) were omitted; and

(b) sections 96 and 97 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.

(7) Subject to paragraph (8), where a non-United Kingdom ship is detained, the Secretary of State must immediately inform the ship’s flag administration in writing.

(8) If it is not possible to inform the ship’s flag administration in accordance with paragraph (7), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

(9) For the purposes of paragraphs (7) and (8), “flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

(a) Section 284 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28) and S.I. 2015/664.

(b) Section 96(7) was amended by Part 1 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) and by Schedule 11 to the Constitutional Reform Act 2005 (c. 4). Section 96(10) was repealed by Schedule 4 to the Arbitration Act 1996 (c. 23).

(10) A ship must not be detained in a port where repair facilities are not readily available by reason of malfunction of the equipment for providing general radiocommunications referred to in regulation 4.1.8 of Chapter IV if the ship is capable of performing all other distress and safety functions as required by that regulation.

Review of the Regulations

15.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 24th December 2026.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015^(a) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Convention are implemented in other countries which are subject to the obligations.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

29th November 2021

Robert Courts
Parliamentary Under Secretary of State
Department for Transport

We consent

25th November 2021

Alan Mak
Rebecca Harris
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 2015 c. 26. Section 30(3) was amended by the Enterprise Act 2016 (c. 12), section 19 and the European Union (Withdrawal) Act 2018 (c. 16), Schedule 8.

Part 1

Amendments to the Merchant Shipping (Radio Installations) Regulations 1998

1. The Merchant Shipping (Radio Installations) Regulations 1998(a) are amended as follows.
2. In regulation 2 (interpretation)—
 - (a) omit the definition of “1984 Regulations”;
 - (b) after the definition of “cargo ship”, insert—

““category A, B, C and D waters” means the waters specified as such in Merchant Shipping Notice (MSN) 1837(M) Amendment 2(b);”;
 - (c) omit the definitions of “certificated radio operator”;
 - (d) omit the definition of “first periodical survey”;
 - (e) before the definition of “general radiotelecommunications” insert—

““fishing vessel” means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;”;
 - (f) after the definition of “general radiotelecommunications” insert—

““gross tonnage” means gross tonnage as determined in accordance with regulation 6 or 12(1) of the Merchant Shipping (Tonnage) Regulations 1997;”;
 - (g) in the definition of “interference”, for “Wireless Telegraphy Act 1949(c)” substitute “Wireless Telegraphy Act 2006(d)”;
 - (h) after the definition of “interference”, insert—

““international voyage” means a voyage between—

 - (a) a port in the United Kingdom and a port outside the United Kingdom; or
 - (b) a port in a country other than the United Kingdom and a port in any other country or territory which is outside the United Kingdom;”;
 - (i) omit the definition of “Maritime and Coastguard Agency”;
 - (j) for the definition of “Merchant Shipping Notice” substitute—

““Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport) and includes a reference to any document amending or replacing that notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;”;
 - (k) omit the definitions of “non-GMDSS ship” and “Organisation”;
 - (l) after the definition of “Merchant Shipping Notice”, as substituted by sub-paragraph (f), insert—

““non-United Kingdom ship” means any ship other than a United Kingdom ship;

“passenger” is a person other than—

 - (a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and

(a) S.I. 1998/2070, amended by S.I. 2000/2687; there are other amending instruments but none is relevant.

(b) Merchant Shipping Notice 1837(M) Amendment 2 is available on <https://www.gov.uk/government/publications/msn-1837-m-amendment-2-categorisation-of-waters> and in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mcga.gov.uk).

(c) 1949 c. 54.

(d) 2006 c. 36.

- (b) a child under one year of age;”;
- (m) in the definition of “Radio Regulations”, for “International Telecommunication Convention” to the end substitute “Constitution and Convention of the International Telecommunication Union, 1992;”;
- (n) omit the definitions of “similar stage of construction” and “tons”.

3. For regulation 3 (application) substitute—

“3.—(1) Subject to paragraph (2), these Regulations apply to—

- (a) United Kingdom ships, wherever they may be; or
- (b) non-United Kingdom ships in United Kingdom waters.

(2) These Regulations do not apply to—

- (a) ships of war and naval auxiliaries;
- (b) ships owned or operated by a state and engaged only on governmental non-commercial service;
- (c) ships engaged on an international voyage;
- (d) ships operating only in category A, B, C and D waters;
- (e) ships not propelled by mechanical means;
- (f) cargo ships of less than 300 gross tonnage;
- (g) pleasure vessels;
- (h) fishing vessels;
- (i) ships to which the Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021(a) apply;
- (j) ships to which the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 apply;
- (k) ships to which the Merchant Shipping (High Speed Craft) Regulations 2004 apply; and
- (l) ships while being navigated within the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of St. Lambert Lock in Montreal in the Province of Quebec, Canada.”.

4. In regulation 5 (equivalents and exemptions)—

- (a) in paragraph (2), for “the bodies and laboratories of any EEA State” substitute “bodies and laboratories”;

- (b) for paragraph (3) substitute—

“(3) Where paragraph (4) applies, the Secretary of State may grant an exemption from the requirements of these Regulations in respect of a ship provided the functional requirements in paragraph 2 of Merchant Shipping Notice 1903 (M)(b) are satisfied in respect of that ship.

(4) This paragraph applies—

- (a) if the conditions in respect of that ship affecting safety are such as to render the full application of the requirements in regulation 8 unreasonable; or
- (b) in exceptional circumstances in respect of a single voyage in relation to which the ship is not equipped.

(a) S.I. 2021/1316.

(b) Merchant Shipping Notice 1903 (M) is available on <https://www.gov.uk/government/collections/merchant-shipping-notice-1903> and in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mca.gov.uk).

(5) Where paragraph (4) does not apply, the Secretary of State may, in exceptional circumstances, grant an exemption from any provision of these Regulations a ship or class of ship if satisfied that compliance with such provision is either impracticable or unreasonable in the case of that ship or class of ship.

(6) An exemption granted under paragraph (3) or (5) may—

- (a) be granted subject to such safety requirements as the Secretary of State thinks fit to ensure the overall safety of the ship; and
- (b) on the giving of reasonable notice, be altered or cancelled.

(7) An exemption granted under paragraph (3) or (5), or an alteration or cancellation under paragraph (6)(b), must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) specify the terms, if any, on which it is given.

(8) The requirement that an exemption granted under paragraph (3) or (5), or an alteration or cancellation under paragraph (6)(b), be in writing is satisfied where the text of the exemption, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

(9) Where an exemption granted under paragraph (3) or (5) is granted subject to safety requirements under paragraph (6)(a), the exemption ceases to have effect if those requirements are not complied with.”.

5. In regulation 6 (performance standards), in paragraph (1)—

- (a) omit sub-paragraphs (a) and (c);
- (b) omit “and those standards” to the end.

6. In regulation 7 (interpretation of Part II)—

- (a) in the definition of “DSC”, for “a Merchant Shipping Notice” substitute “Section 5 of Annex 1 to Merchant Shipping Notice 1874 (M+F) Amendment 4”;
- (b) omit the definition of “EPIRB”;
- (c) in the definition of ““GMDSS general operator’s certificate” and “GMDSS restricted operator’s certificate””, for “section 7(2) of the Wireless Telegraphy Act 1949” substitute “Part 2 of the Wireless Telegraphy Act 2006”;
- (d) omit the definitions of “INMARSAT” and “radar transponder”;
- (e) after the definition of “radio log” insert—

““recognised mobile satellite service” means any service which operates through a satellite system and is recognized by the International Maritime Organization, for use in the GMDSS;”.

7. For regulation 8, substitute—

“**8.** A ship must comply with each requirement applicable to that ship prescribed by Merchant Shipping Notice 1903 (M).”.

8. Regulations 11 to 15 are omitted.

9. In regulation 16 (radio watches)—

- (a) in paragraph (1), in sub-paragraph (d), for “an INMARSAT” substitute “a recognised mobile satellite service”;
- (b) omit paragraphs (3) and (4).

10. In regulation 17 (sources of energy)—

- (a) in paragraph (2)—
 - (i) omit “INMARSAT”;
 - (ii) omit “1984 Regulations or the”;
 - (iii) after “the Merchant Shipping (Cargo Ship Construction) Regulations 1997(a)” insert “or the Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II or II(A)) Regulations 1998(b)”.
- (b) in paragraph (10), in sub-paragraphs (e) and (f), for “an INMARSAT” substitute “a”.

11. In regulation 18 (serviceability and maintenance requirements), in paragraph (6), for “Merchant Shipping Notice No M 1475” substitute “Merchant Shipping Notice 1690 (M) Amendment 1(c)”.

12. In regulation 19 (radio personnel)—

- (a) in paragraph (3), for “subsection D of Section IIIA of Article 55 of the Radio Regulations” substitute “Section III of Article 47 of the Radio Regulations”; and
- (b) in paragraph (4), for “sub-section C of Section IIIA of Article 55 of the Radio Regulations” substitute “Section III of Article 47 of the Radio Regulations”.

13. Omit regulations 21 to 48.

14. For regulation 49 (power to detain) substitute—

“Power to detain

49—(1) For the purposes of this regulation, any reference to “the Act” is a reference to the Merchant Shipping Act 1995.

(2) Subject to paragraph (10), a ship which does not comply with a requirement in these Regulations or Merchant Shipping Notice 1903 (M) applicable to that ship may be detained.

(3) Section 284 of the Act applies where a ship is liable to be detained under this regulation as if—

- (a) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and
- (b) subsection (7) were omitted.

(4) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—

- (a) states the grounds of the detention; and
- (b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(5) Subject to paragraph (6), section 96 (references of detention notices to arbitration) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 (power to detain dangerously unsafe ship).

(6) For the purposes of paragraph (5)—

- (a) section 96 of the Act applies as if—
 - (i) subsection (3) were omitted;

(a) S.I. 1997/1509, amended by S.I. 1999/643; there are other amending instruments but none is relevant.
(b) S.I. 1998/2514, amended by S.I. 2000/2687; there are other amending instruments but none is relevant.
(c) Merchant Shipping Notice 1690 (M) is available on <https://www.gov.uk/government/collections/merchant-shipping-notice-1690> and in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mca.gov.uk).

(ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;

(iii) subsection (11) were omitted; and

(b) sections 96 and 97 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.

(7) Subject to paragraph (8), where a non-United Kingdom ship is detained, the Secretary of State must immediately inform the ship’s flag administration in writing.

(8) If it is not possible to inform the ship’s flag administration in accordance with paragraph (7), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

(9) For the purposes of paragraphs (7) and (8), “flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

(10) A ship must not be detained in a port where repair facilities are not readily available by reason of malfunction of the equipment for providing general radiocommunications referred to in paragraph 2.1.8 of Merchant Shipping Notice 1903 (M) if the ship is capable of performing all other distress and safety functions as required by that Merchant Shipping Notice.”.

15. In regulation 50 (penalties), in paragraph (1), omit “radiotelephone operator or radio officer or a”.

16. After regulation 51 insert—

“Review of Regulations

52.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations; and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 24th December 2026.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”.

17. Omit Schedules 1 and 4 to 7.

Part 2

Amendments to other instruments

The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998

18. The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998(a) are amended as follows.

19. In Schedule 1 (large vessels), in the table, in respect of the entry for the Merchant Shipping (Radio Installations) Regulations 1998, in the third column after “2011/1043” insert “; 2016/1025; 2021/1316”.

The Merchant Shipping (Fees) Regulations 2018

20. The Merchant Shipping (Fees) Regulations 2018(b) are amended as follows.

21. In Schedule 1 (fees under the Merchant Shipping Act 1995), in the table in paragraph 5 (fees for inspections, etc) of Part 1 (surveys, inspections and applications for exemption), in Section H (radio and navigational equipment), in respect of the entry for the Merchant Shipping (Radio Installations) Regulations 1998, in the third column, at the end insert “2021/1316”.

SCHEDULE 2

Regulation 12

Equipment tests and reserve power checks

1. At least once every day—

- (a) the proper functioning of the DSC facilities must be tested, without radiation of signals, by use of the means provided on the equipment;
- (b) batteries providing a source of energy for any part of the radio installations must be tested and, where necessary, brought up to the fully charged condition.

2. At least once every week—

- (a) subject to paragraph 3, the proper operation of the DSC facilities must be tested by means of a test call, when within communication range of a coast station fitted with DSC equipment;
- (b) where the reserve source of energy is not a battery (for example, a motor generator), the reserve source of energy must be tested.

3. Where a ship has been out of communication range of a coast station fitted with DSC equipment for a period of longer than one week, a test call must be made on the first opportunity that the ship is within communication range of such a coast station.

4. At least once every month—

- (a) each satellite EPIRB must be examined to determine its capability to operate properly, particularly its ability to float free (where required to do so) in the event of the ship sinking, its security and for signs of damage;
- (b) each search and rescue locating device (radio or AIS) must be checked for security and signs of damage;

(a) S.I. 1998/2771, amended by S.I. 2000/482, 2016/353, 2018/242, 2020/501 and 2020/673; there are other amending instruments but none is relevant.

(b) S.I. 2018/1104, to which there are amendments not relevant to these Regulations.

- (c) each survival craft two-way VHF equipment must be tested on a frequency other than 156.8 MHz (VHF Channel 16);
- (d) a check must be made on—
 - (i) the security and condition of all batteries providing a source of energy for any part of a radio installation; and
 - (ii) the battery connections and compartment.

5. In this Schedule—

“AIS” means automatic identification system;

“DSC” means Digital Selective Calling being a technique using digital codes which enables a radio station to establish contact with, and transfer information to, another station or group of stations, and complying with the relevant recommendations as specified in Section 5 of Annex 1 to Merchant Shipping Notice 1874 (M+F) Amendment 4(a);

“EPIRB” means an emergency position indicating radio beacon capable of transmitting a distress alert either through the COSPAS/SARSAT polar orbiting satellite service operating in the 406 MHz band;

“mobile-satellite service” means a radiocommunication service between—

- (a) mobile earth stations and one or more space stations, or between space stations used by this service; or
 - (b) mobile earth stations by means of one or more space stations,
- and this service may also include feeder links necessary for its operation;

“satellite EPIRB” means an EPIRB which is in the mobile-satellite service.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement outstanding amendments to Chapter IV of the International Convention for the Safety of Life at Sea, 1974 (“the Convention”), which relates to radiocommunications, in respect of ships engaged on international voyages.

These Regulations also amend the Merchant Shipping (Radio Installations) Regulations 1998 (S.I. 1998/2070) (“the 1998 Regulations”) to make provision for radiocommunications in relation to ships engaged on non-international voyages.

These Regulations therefore have the effect that the 1998 Regulations cease to apply to ships subject to the Convention requirements, which must only comply with the requirements in these Regulations.

These Regulations contain requirements relating to a ship’s radiocommunications equipment and arrangements. These Regulations apply, with certain limited exceptions, to United Kingdom ships and to non-United Kingdom ships in United Kingdom waters, including ships from countries which are not parties to the Convention.

These Regulations implement all amendments to Chapter IV as at the date on which this instrument comes into force. All future amendments to the provisions of Chapter IV (radiocommunications), and the instruments referred to in them, and Article 47 of the Radio Regulations, will be automatically incorporated into these regulations by way of the ambulatory reference provision (regulation 7) using the power in section 306A of the Merchant Shipping Act 1995.

(a) Merchant Shipping Notice 1874 (M+F) Amendment 4 is available on <https://www.gov.uk/government/publications/msn-1874mf-amendment-4-marine-directive-other-approval-and-standards> and in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mca.gov.uk).

These Regulations provide for the granting of exemptions (regulation 5) and the approval of equivalents (regulation 6).

Regulations 8 to 12 apply the technical carriage requirements in Chapter IV to ships engaged on international voyages. Regulation 9 makes provision for performance standards (including, for the purpose of compliance by non-UK ships in UK waters, reference to the international standards set out in Annex 1 to Merchant Shipping Notice 1874 (M+F) Amendment 4). Regulation 10 makes provision for watches etc. (including in relation to maintenance requirements, radio personnel and radio records) and where relevant refers to recommendations etc. in Marine Guidance Note 641. Regulation 12 makes it a requirement for specified persons to carry out tests and checks of radio equipment, and to inform the master if radio equipment is defective.

Regulation 13 makes provision for a number of offences. Regulation 13(1) makes it an offence by the owner and master for a ship to be used in contravention of any of the requirements of these Regulations. Regulation 13(2) makes it an offence by a person to whom regulation 12 applies to fail to carry out the tests and checks, or inform the master of defective equipment, as required by regulation 12. Regulation 14 contains power to detain a ship in cases of non-compliance with these Regulations and certain provisions of Chapter IV.

Regulation 15 requires the Secretary of State to review the operation and effect of these Regulations and publish a report before 24th December 2026 and at intervals not exceeding five years after that. Following a review, it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be amended or revoked. A further instrument would be needed to amend or revoke the Regulations.

Part 1 of Schedule 1 to these Regulations amends the 1998 Regulations to prescribe the technical requirements for ships not engaged on international voyages, including provision that the carriage requirements relating to radio equipment are prescribed in Merchant Shipping Notice (MSN) 1903(M). Part III of the 1998 Regulations is revoked as the requirements contained in that Part no longer apply to any ship.

The Marine Guidance Notice and Merchant Shipping Notices referred to in these Regulations are available from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mca.gov.uk) and on <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency>.

The Convention and its Protocol of 1988 may be obtained in copy from the International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR and both are available on the Foreign and Commonwealth Office (FCO) treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>). The text of the IMO Resolutions amending the Convention and Protocol may be obtained from the IMO or found in a Marine Information Note, or on the FCO treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>).

Future amendments to the Convention and to the Protocol may be obtained in copy from the IMO and, after coming into force in the United Kingdom, found on the Foreign and Commonwealth Office (FCO) treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>). Until such publication is made on the FCO treaties database, an amendment will be available from the MCA and on <https://www.gov.uk>. An amendment will be publicised in advance of its in-force date by means of a Parliamentary Statement to both Houses of Parliament and by way of a Marine Guidance Note, which will be available in copy from the MCA and on <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency>.

A full 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 is published alongside the instrument on www.legislation.gov.uk.

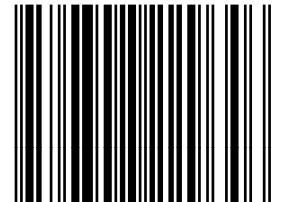
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