

2023 No. 1216

MERCHANT SHIPPING

**The Merchant Shipping (Small Workboats and Pilot Boats)
Regulations 2023**

<i>Made</i>	- - - -	<i>20th November 2023</i>
<i>Laid before Parliament</i>		<i>22nd November 2023</i>
<i>Coming into force</i>	- -	<i>13th December 2023</i>

The Secretary of State, after consulting the persons referred to in section 86 of the Merchant Shipping Act 1995(a) (“the 1995 Act”), and in the exercise of the powers conferred by sections 47, 48, 77, 85(1)(a) and (b), (3)(a) to (c), (e), (k), (l), (n) to (q), (5) to (7), 86(1)(a) to (d) and 302(1) of that Act and with the consent of the Treasury, makes the following Regulations.

PART 1

Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023 and come into force on 13th December 2023.

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

Revocation

2. The following Regulations are revoked—

- (a) the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998(b);
- (b) the Merchant Shipping (Small Workboats and Pilot Boats) (Amendment) Regulations 2016(c).

Interpretation

3.—(1) In these Regulations—

“the 1995 Act” means the Merchant Shipping Act 1995;

(a) 1995 c. 21. Subsections (4A) and (4B) of section 47 were inserted by section 10 of the Marine Navigation Act 2013 (c. 23). Section 85 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7, Part 1 and by the British Overseas Territories Act 2002 (c. 8). There are other amendments not relevant to these Regulations.

(b) S.I. 1998/1609, amended by S.I. 2006/2055, 2013/1785, 2015/782, 2016/354, 2018/1221, 2020/501 and 673, 2022/1342, 2023/568.

(c) S.I. 2016/354.

“bulk cargo” has the same meaning as in regulation 2(1) of the Merchant Shipping (Carriage of Cargoes) Regulations 1999(a);

“certificate” means a workboat certificate or a pilot boat certificate;

“Certifying Authority” has the meaning given to it in regulation 10 (certifying authorities);

“competent harbour authority” has the meaning given to it in section 1 of the Pilotage Act 1987(b);

“dedicated pilot boat” means a small vessel used, or intended to be used, solely as a pilot boat;

“load line length” means the greater of the following distances—

(a) 96% of the total length on a waterline at 85% of the least moulded depth measured from the top of the keel, or

(b) the length from the fore-side of the stem to the axis of the rudder stock on that waterline, and where the stem contour is concave above the waterline at 85% of the least moulded depth, both the forward terminal of the total length and the fore-side of the stem respectively must be taken at the vertical projection to that waterline of the aftermost point of the stem contour (above that waterline). In ships designed with a rake of keel the waterline on which this length is measured must be parallel to the designed waterline;

“Marine Guidance Note” means a note described as such and issued by the Maritime and Coastguard Agency 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;

“Maritime and Coastguard Agency” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport which operates under that name;

“Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency 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;

“owner” means, in relation to a vessel, the person who owns the vessel, not being the competent harbour authority;

“passenger” means any person carried on a ship except—

(a) a person employed or engaged in any capacity on the business of the ship,

(b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled, or

(c) a child of under one year of age;

“pilot boat” means a small vessel employed, or intended to be employed, in pilotage services;

“pilot boat certificate” means a pilot boat certificate issued in accordance with section 4.3 of the Workboat Code Edition 3;

“pilot boat endorsement” means, in relation to a workboat certificate, an endorsement that authorises the workboat to be operated as a pilot boat;

“remote operation centre” means any location other than a remotely operated unmanned vessel from which a remotely operated unmanned vessel is operated;

“remotely operated unmanned vessel” means a small vessel that—

(a) is operated from a remote operation centre, and

(b) is not carrying any person at the time that it is operated;

(a) S.I. 1999/336.

(b) 1987 c. 21. Section 1 was amended by the Transport and Works (Scotland) Act 2007 (asp 8), Schedule 3 and the Marine Navigation Act 2013 (c. 23), section 1.

“similar stage of construction” means a stage at which—

- (a) construction identifiable with a specific vessel begins, and
- (b) assembly of that vessel has commenced, comprising at least 1% of the estimated mass of all structural material;

“small vessel” means a vessel of less than 24 metres in load line length or, in the case of a vessel the keel of which was laid or which was at a similar stage of construction before 21st July 1968, less than 150 tons;

“surveyor” means a surveyor of ships, or any other person appointed by a Certifying Authority other than the Secretary of State, to be a surveyor;

“tons” means—

- (a) in the definition of “small vessel”, the gross tons, measured in accordance with the Merchant Shipping (Tonnage) Regulations 1967(a) as they were in force on 20st July 1968, and
- (b) in all other cases, gross tons, measured in accordance with regulation 14 (measurement and certification) of the Merchant Shipping (Tonnage) Regulations 1997(b);

“United Kingdom vessel” has the same meaning as that given in section 85(2) of the 1995 Act in relation to a “United Kingdom ship” which applies as if for each occurrence of the word “ship” there were substituted the word “vessel”;

“voyage” means a journey of any kind;

“workboat” means a small vessel in commercial use other than for sport or pleasure, including a dedicated pilot boat;

“workboat certificate” means a workboat certificate issued in accordance with section 4.3 of the Workboat Code Edition 3;

“Workboat Code Edition 3” means the document entitled “The Workboat Code Edition 3, The Safety of Small Workboats and Pilot Boats — A Code of Practice”(c) published by the Maritime and Coastguard Agency, and includes a reference to any document amending or replacing that document which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice.

(2) Where a vessel is managed by a person other than the owner, whether on behalf of the owner or some other person, or on their own behalf, a reference in these Regulations to the owner must be construed as including a reference to that person.

(3) In these Regulations, “compliance survey”, “annual survey”, “intermediate survey”, “renewal survey” and “emergency survey” have the same meaning as an “examination” of that type in section four of the Workboat Code Edition 3.

Application

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

- (a) workboats which are United Kingdom vessels wherever they may be,
- (b) other workboats operating from United Kingdom ports whilst in United Kingdom waters,
- (c) pilot boats, not being workboats, which are United Kingdom vessels wherever they may be, and
- (d) remotely operated unmanned vessels—
 - (i) which are United Kingdom vessels wherever they may be, or
 - (ii) operating from United Kingdom ports whilst in United Kingdom waters.

(a) S.I. 1967/172; relevant amending instrument is S.I. 1967/1093. The instrument was revoked by S.I. 1982/841.

(b) S.I. 1997/1510, to which there are amendments not relevant to these Regulations.

(c) The Workboat Code Edition 3, The Safety of Small Workboats and Pilot Boats – A Code of Practice is available at the following address: <https://www.gov.uk/government/collections/small-craft-codes-of-practice>.

- (2) These Regulations do not apply to—
- (a) a workboat or pilot boat carrying more than 12 passengers;
 - (b) hovercraft or submersible vessels;
 - (c) vessels carrying bulk cargo.

(3) These Regulations only apply where the owner or master of a vessel applies for certification of the vessel exclusively under these Regulations.

Provisions disapplied

5.—(1) The Regulations listed in the first column of the table in Schedule 1 (statutory instruments disapplied) do not apply to a vessel which meets the conditions set out in paragraph (2) to the extent specified in the third column of that table.

- (2) The conditions are that the vessel—
- (a) has been surveyed and issued with a certificate in accordance with these Regulations, and
 - (b) in the case of a vessel the keel of which was laid or which was at a similar stage of construction on or after 7th August 2014, complies with the standards set out in—
 - (i) Annex 1 to Marine Guidance Note MGN 601(M)(a) where the vessel is less than 200 tons, or
 - (ii) Annex 1 to Marine Guidance Note MGN 602(M)(b) where the vessel is 200 tons or more but less than 500 tons.

Exemptions

6.—(1) This regulation does not apply in relation to the requirement to hold a certificate under regulation 9.

(2) Subject to paragraph (1), any provision in these Regulations or the Workboat Code Edition 3, does not apply in respect of a vessel if, in exceptional circumstances, the Secretary of State grants an exemption from those provisions because it is either impracticable or unreasonable for that vessel to comply.

(3) An exemption under paragraph (2) may be granted subject to such safety requirements as the Secretary of State thinks fit to ensure the overall safety of the vessel, its occupants or any other person or the environment.

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

(5) Where an exemption under paragraph (2) is granted subject to safety requirements under paragraph (3), the exemption ceases to have effect if those requirements are not complied with.

(6) An exemption granted under paragraph (2), or an alteration or cancellation under paragraph (4), must—

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

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

- (a) transmitted by electronic means,

(a) MGN 601(M) is available at the following address: MGN 601 MLC Crew accommodation for small vessels < 200GT - GOV.UK (www.gov.uk).

(b) MGN 602(M) is available at the following address: MGN 602 MLC Substantial equivalence for accommodation for 200GT to < 500GT vessels - GOV.UK (www.gov.uk).

- (b) received in legible form, and
- (c) capable of being used for subsequent reference.

(8) The expiry of the validity of an exemption granted under paragraph (2), or an alteration under paragraph (4), must not be later than the expiration date specified for the certificate relevant to the vessel in regulation 13 (duration of a certificate).

(9) This regulation applies to a Certifying Authority who is not the Secretary of State but only in relation to anything required under the Workboat Code Edition 3 that is authorised by the Secretary of State.

Equivalent standards to those in the Workboat Code Edition 3

7.—(1) Where these Regulations or the Workboat Code Edition 3 require that—

- (a) a particular fitting, material, appliance or apparatus, or a type of fitting, material, appliance or apparatus be fitted on, or carried in, a vessel,
- (b) a particular arrangement be made on, or in relation to, a vessel, or
- (c) any particular provision be made in relation to a vessel, Edition 3,

the Secretary of State may approve any other fitting, material, appliance or apparatus, arrangement or other provision if satisfied that it is at least as effective as that required by these Regulations or the Workboat Code Edition 3, as the case may be.

(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, continuation, alteration or cancellation is—

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

(5) This regulation applies to a Certifying Authority who is not the Secretary of State but only in relation to anything required under the Workboat Code Edition 3 that is authorised by the Secretary of State.

PART 2

Survey and certification of vessels

Survey requirements

8.—(1) A vessel is required to be surveyed in accordance with this regulation.

(2) A compliance survey must be completed in accordance with section 4.2 (compliance examination) of the Workboat Code Edition 3 before a vessel is put into service or a certificate under these Regulations is first issued in respect of that vessel.

(3) An annual survey must be completed in accordance with section 4.4 (annual examination) of the Workboat Code Edition 3—

- (a) within the end of a period of three calendar months beginning with each anniversary date of the vessel's compliance survey, and
 - (b) at an interval not exceeding 15 months beginning with the date of the previous survey.
- (4) An intermediate survey must be completed in accordance with section 4.5 (intermediate examinations) of the Workboat Code Edition 3 within a period of not more than 36 months beginning with date of the compliance survey or any previous renewal survey.
- (5) A renewal survey must be completed in accordance with section 4.6 (renewal examination) of the Workboat Code Edition 3 within a period of five years beginning with the date of the compliance survey or previous renewal survey.
- (6) An emergency survey must be completed in accordance with section 4.7 (emergency examinations) of the Workboat Code Edition 3 if it is required by the Certifying Authority under regulation 19(2)(a).
- (7) A report of any survey completed by a surveyor under this regulation must include an assessment indicating if the vessel satisfies the applicable requirements of the Workboat Code Edition 3.

Requirement for a certificate

- 9.** A vessel must not be operated unless—
- (a) it has a valid certificate required under the Workboat Code Edition 3 for that vessel,
 - (b) in the case of a workboat or a pilot boat, a valid certificate is retained on board the vessel or if this is not reasonably practicable, is available for immediate inspection on shore,
 - (c) in the case of a remotely operated unmanned vessel, a valid certificate is available for immediate inspection at the remote operation centre,
 - (d) the vessel complies with the requirements of the Workboat Code Edition 3 (including any requirements as to operation, manning and maintenance), and
 - (e) in the case of a pilot boat, such a vessel has been surveyed and a pilot boat certificate or a workboat certificate with a pilot boat endorsement has been issued in accordance with the Workboat Code Edition 3.

Certifying Authorities

10.—(1) In these Regulations, “Certifying Authority” means the Secretary of State or any person authorised by the Secretary of State^(a).

(2) Authorisation under paragraph (1) may be given conditionally or unconditionally and is subject to paragraph (4).

(3) Without restricting what may be done under paragraph (2), the Secretary of State may in particular impose limitations on any person's authorisation relating to—

- (a) individual vessels,
- (b) classes of vessels, and
- (c) the extent of any survey to be carried out by that person.

(4) The Secretary of State may direct in relation to an individual case or to a class of cases that a survey or part of a survey for the purposes of these Regulations may only be carried out by the Secretary of State and not by another Certifying Authority.

(a) A list of Certifying Authorities, authorised by the Secretary of State is published in Marine Information Note 538. Amendment 5(M) is available at the following address: <https://www.gov.uk/government/publications/min-538-amendment-5-m-codes-of-practice-authorisation-of-certifying-authorities/min-538-amendment-5-m-codes-of-practice-authorisation-of-certifying-authorities#list-of-certifying-authorities>.

(5) A Certifying Authority, other than the Secretary of State, is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and its property is not to be regarded as property of or held on behalf of the Crown.

(6) An authorisation or a direction given by the Secretary of State under this regulation must be in writing and include the details of any conditions or particulars in relation to the authorisation or direction.

Application for a certificate

11.—(1) The owner or master of a vessel may make an application to a Certifying Authority to issue any certificate that is required under these Regulations.

(2) An application under paragraph (1) must—

- (a) be made on a form specified by the Certifying Authority, and
- (b) in the case of any application made to the Secretary of State, include the payment of any fee prescribed in relation to it in regulation 3 and Schedule 1 to the Merchant Shipping (Fees) Regulations 2018^(a).

Determination of an application for a certificate

12.—(1) On receipt of an application for a certificate, a Certifying Authority must—

- (a) inform the owner or master that a surveyor is required to carry out a survey of the vessel of a type specified in regulation 8 (survey requirements) and in accordance with section 4 of the Workboat Code Edition 3, or
- (b) decline the application if—
 - (i) the Certifying Authority does not have the necessary experience or expertise in relation to the type of vessel for which the application is made, or
 - (ii) the application has not been made in accordance with regulation 11(2).

(2) The Certifying Authority must consider if a certificate may be issued in respect of a vessel if a notification signed by a surveyor and either the owner or master of the vessel is received.

(3) A notification under paragraph (2) must—

- (a) confirm that at the date of the notification being given—
 - (i) a survey required under these Regulations has been completed,
 - (ii) the vessel meets all the requirements of these Regulations and the Workboat Code Edition 3 in relation to the particular certificate being requested,
- (b) include a report documenting the vessel's compliance with the requirements of these Regulations and the Workboat Code Edition 3, and
- (c) where section 12 or 12B of the Workboat Code Edition 3 applies to the vessel, include stability information or a stability information booklet whichever is appropriate .

(4) Where the Workboat Code Edition 3 provides discretion as to which requirements apply to a vessel, a Certifying Authority must make a determination as to which requirements will apply to that vessel to reasonably ensure—

- (a) the safety of that vessel, and
- (b) the health and safety of any persons on that vessel.

(5) If a Certifying Authority makes a determination under paragraph (4), it must notify the owner or master in writing of the requirements that apply before any certificate is issued under paragraph (6).

(6) The Certifying Authority must issue the certificate in accordance with section 4.3 or 4.13 of the Workboat Code Edition 3 if having considered—

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

- (a) the notification referred to in paragraph (2), and
- (b) any requirement it determines will apply under paragraph (4),

the Certifying Authority is satisfied that the vessel meets all the relevant requirements of the Workboat Code Edition 3 for a vessel of its type.

(7) A certificate issued under this regulation must contain the information specified in the sample certificates set out in Appendix 10 of the Workboat Code Edition 3 depending on the type of certificate being issued.

(8) If after considering the notification referred to in paragraph (2), a Certifying Authority determines that the vessel does not meet all of the requirements of these Regulations and the Workboat Code Edition 3 for a vessel of its type, the Certifying Authority must advise—

- (a) the surveyor who carried out the survey, and
- (b) the owner or master of that vessel,

of the corrective action which, in the opinion of the Certifying Authority, is required before a certificate may be issued.

(9) Where corrective action is not taken within such reasonable period as a Certifying Authority may specify, the Certifying Authority must refuse the application for a certificate and notify the surveyor and the owner or master of the vessel of the refusal and the reasons for such refusal.

Duration of a certificate

13.—(1) A certificate issued under these Regulations is valid until the end of the date specified on that certificate.

(2) The date specified under paragraph (1) must be—

- (a) in the case of a certificate issued following a compliance survey, a date not exceeding five years beginning with the date on which that survey is completed;
- (b) in the case of a certificate issued following a renewal survey—
 - (i) where the renewal survey is completed more than three months before expiry of the existing certificate, a date not more than five years beginning with the date of the renewal survey;
 - (ii) where the renewal survey is completed within a period of three months before expiry of the existing certificate, a date not more than five years beginning with the expiration date of the existing certificate;
 - (iii) where the renewal survey is completed after expiry of the existing certificate, a date not more than five years beginning with the date on which that existing certificate expired.

Extension of a certificate

14.—(1) Where the conditions set out in paragraph (2) are met, a Certifying Authority that has issued a certificate may extend the period of validity of that certificate for a period not exceeding three calendar months.

(2) The conditions are that—

- (a) in accordance with regulation 12 (determination of an application for a certificate), the Certifying Authority has been notified by a surveyor that a renewal survey has been carried out, and
- (b) the Certifying Authority is unable to issue a new certificate prior to the expiry of the existing certificate.

Validity of a certificate

15.—(1) A certificate issued under these Regulations ceases to be valid if—

- (a) the vessel is sold or there is a change of ownership,
- (b) a survey is not completed within the period specified for it in regulation 8 (survey requirements),
- (c) the vessel does not meet all the requirements of these Regulations and the Workboat Code Edition 3 for a vessel of its type,
- (d) the vessel does not meet all of the conditions or requirements under which the certificate was granted,
- (e) a material change has been made to the vessel or its equipment,
- (f) that certificate is replaced by a new certificate,
- (g) that certificate has expired,
- (h) the vessel suffers an incident of a type referred in regulation 19(4) which is not reported as required under regulation 19 (incident reporting), or
- (i) the vessel, its equipment or machinery has sustained damage or is otherwise deficient since the completion of any survey required under these Regulations and the damage or deficiency is a material change,

and for the purposes of sub-paragraphs (a) to (e), (g) and (i), the Certifying Authority has not given its written approval under regulation 18(3)(a) (change of circumstances requiring approval).

(2) For the purposes of paragraph (1)(e) and (i), a change is material if it affects, or is likely to affect—

- (a) the safety of the vessel,
- (b) the health and safety of any persons on the vessel, or
- (c) compliance with the requirements in the Workboat Code Edition 3 in relation to the vessel.

Cancellation of a certificate

16.—(1) The Secretary of State may give notice that a certificate issued under these Regulations is cancelled where there is reason to believe that—

- (a) the certificate was issued on the basis of false or erroneous information;
- (b) since any survey required by these Regulations, the structure, equipment or machinery has sustained damage or is otherwise deficient.

(2) The Secretary of State may require a certificate issued under these Regulations which has expired, or has been cancelled, to be surrendered.

(3) The Secretary of State must give notice in writing of any cancellation to—

- (a) the owner or master of the vessel,
- (b) the surveyor of the vessel,
- (c) the competent harbour authority in the case of a pilot boat or workboat with a pilot boat endorsement, and
- (d) the Certifying Authority where the Certifying Authority is not the Secretary of State.

Prohibited acts in relation to certificates

17. A person must not—

- (a) intentionally alter a certificate issued under these Regulations,
- (b) intentionally make a false certificate for the purposes of these Regulations,
- (c) knowingly or recklessly furnish false documents or information for the purpose of obtaining for any vessel a certificate required under these Regulations,
- (d) with intent to deceive, use, lend, or allow to be used by another, a certificate issued under these Regulations, or

- (e) fail to surrender a certificate required to be surrendered under regulation 16(2).

PART 3

Change of circumstances and offences

Responsibilities of the owner and master

18.—(1) This regulation applies where a vessel has been certified in accordance with regulation 12(6) (issue of a relevant certificate).

- (2) The owner and master of each vessel to which this regulation applies must ensure that—
 - (a) the vessel and its equipment is maintained so that the vessel in all respects remains fit to operate without danger to the vessel or persons on board;
 - (b) any change of circumstances of a type mentioned in regulation 15(1)(a) to (e), (g) and (i) (validity of a certificate) must be reported to the Certifying Authority which issued the certificate at the earliest opportunity and in any event before the vessel undertakes any further voyage;
 - (c) any incident of a type referred to under regulation 19(4) concerning the vessel is reported in accordance with regulation 19 (incident reporting).
- (3) Where paragraph (2)(b) applies the Certifying Authority must—
 - (a) give written approval for the vessel to continue operating under the certificate, or
 - (b) advise the owner and master of the vessel in writing about any corrective action that must be taken before the vessel undertakes any further voyage.
- (4) Any corrective action undertaken in respect of the vessel must be in accordance with the advice provided by the Certifying Authority.

Incident reporting

19.—(1) Where an owner or master of a vessel, in respect of which a certificate has been issued under these Regulations, becomes aware that the vessel has been involved in an incident, the owner or master must report that incident to the Certifying Authority which issued the certificate at the earliest opportunity and in any event before the vessel undertakes any further voyage.

- (2) Where a report has been made under paragraph (1), the Certifying Authority must—
 - (a) determine whether an emergency survey is necessary, and, if so, require one to be carried out at the earliest opportunity in accordance with regulation 8(6), and
 - (b) notify the owner and master of its decision in writing.
- (3) In this regulation, “incident” means—
 - (a) any collision,
 - (b) any grounding except where this occurs as a part of the vessel’s intended operation,
 - (c) any fire,
 - (d) an event or sequences of events other than those listed in sub-paragraphs (a) to (c) which has occurred directly in connection with the operation of a ship that endangered, or if not corrected would endanger the safety of a ship, its occupants or any other person or the environment involving—
 - (i) the hull,
 - (ii) the keel or keel attachments,
 - (iii) the rudder,
 - (iv) any other fitting that is below the waterline,
 - (v) the propulsion system,

- (vi) any steerage equipment,
- (vii) any machinery, or
- (viii) the failure of any other part which makes it unsafe to operate the vessel or compromises the safety of—
 - (aa) persons on board,
 - (bb) other vessels, or
 - (cc) the marine environment.

Deficient vessels

20.—(1) A vessel is deficient where a surveyor determines following a survey required under regulation 8 (survey requirements) or an emergency survey under regulation 19(2)(a) (survey requirement following an incident) or following any corrective action notified as having been completed for the purposes of (3) that the condition of that vessel does not correspond substantially with—

- (a) the particulars on the certificate issued in respect of that vessel under these Regulations, or
- (b) the vessel is not fit to undertake a voyage without danger to the vessel or to a person on board.

(2) Where a surveyor determines that a vessel is deficient, the surveyor must—

- (a) advise the owner and master of the corrective action which, in the opinion of the surveyor, is required and specify a period within which such corrective action must be completed and approved by the surveyor, and
- (b) notify the Certifying Authority.

(3) The owner and master must notify the surveyor and the Certifying Authority once corrective action required under paragraph (2)(a) has been completed.

(4) If the surveyor approves the corrective action undertaken for the purposes of paragraph (2)(a), the surveyor must provide confirmation of such approval to—

- (a) the owner or master of the vessel, and
- (b) the Certifying Authority.

(5) If corrective action is not completed within such reasonable period as the surveyor may specify, the Certifying Authority may suspend the relevant certificate.

(6) A certificate suspended by a Certifying Authority may be—

- (a) reinstated if the Certifying Authority is notified by a surveyor of the vessel that corrective action has been taken, or
- (b) cancelled by the Certifying Authority if a notification is not received from a surveyor of the vessel within a period of 3 months following the date of the suspension that corrective action has been taken.

(7) The period provided for in paragraph (7)(b) may be extended by the Certifying Authority if the Certifying Authority believes that the owner or master of the vessel is taking reasonable steps to bring the vessel into compliance.

(8) The Secretary of State may give written notice to a Certifying Authority requiring the suspension or cancellation of a certificate it has issued if the Secretary of State has reasonable grounds to believe that the vessel to which the certificate relates does not satisfy the requirements of these Regulations or the Workboat Code Edition 3.

(9) The Certifying Authority must give notice in writing of any suspension, an extension of any suspension or cancellation or a reinstatement of a certificate to—

- (a) the owner and master of the vessel,
- (b) the surveyor of that vessel,

- (c) the competent harbour authority in the case of a pilot boat or workboat with a pilot boat endorsement, and
- (d) the Secretary of State where the Certifying Authority is not the Secretary of State.

Control

21. A surveyor may go on board a United Kingdom vessel, a non-United Kingdom vessel in United Kingdom waters, or enter a remote operation centre for the purposes of verifying that—

- (a) the vessel or remote operation centre has a valid certificate required under these Regulations,
- (b) the condition of the vessel and its equipment correspond substantially with the particulars shown on the certificate, and
- (c) where applicable, the provisions of regulation 18 (responsibilities of the owner and master) are being complied with.

Detention of vessels

22.—(1) Where a vessel does not comply with the requirements of these Regulations, that vessel is liable to be detained.

(2) Section 284(a) of the 1995 Act (enforcing detention of ship) applies where a vessel is liable to be detained under this regulation as if—

- (a) references to detention of a ship under the 1995 Act were references to detention of the vessel in question under this regulation, and
- (b) subsection (7) were omitted.

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

- (a) states the grounds for the detention, and
- (b) requires the terms of the notice to be complied with until the vessel is released by any person mentioned in section 284(1) of the 1995 Act.

(4) Subject to paragraph (5), section 96(b) and section 97 of the 1995 Act (references of detention notices to arbitration and compensation in connection with invalid detention of a ship) 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(c) of that Act (power to detain dangerously unsafe ship).

(5) For the purposes of paragraph (4)—

- (a) section 96 of the 1995 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 1995 Act apply as if “the relevant inspector” means the person issuing the detention notice pursuant to this regulation.

(a) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 9 and Schedule 1 and by S.I. 2015/664.

(b) Section 96(7) was amended by the Tribunals, Courts and Enforcement Act 2007 (c. 15), section 50(6) and Schedule 10, paragraph 26 and by the Constitutional Reform Act 2005 (c. 4), section 59(5) and Schedule 11, paragraph 5. Section 96(10) was repealed by the Arbitration Act 1996 (c. 23), section 107(2) and Schedule 4.

(c) Section 95 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 9 and Schedule 1, paragraph 2.

Review application

23.—(1) If an applicant for a certificate under these Regulations is dissatisfied with the outcome of a survey carried out for those purposes, the applicant may request a review of that outcome to be carried out by the Certifying Authority.

(2) Any application seeking a review under paragraph (1)—

(a) must—

(i) be made in writing within a period of 21 days beginning with the date on which the outcome of the survey was notified,

(ii) state the reasons for requesting the review, and

(b) may be accompanied by such further evidence as the applicant believes supports those reasons.

(3) Before carrying out a review, the Certifying Authority—

(a) may request further evidence in support of the application,

(b) must notify the applicant and the surveyor who carried out the survey for which a review has been requested, and

(c) must advise the applicant—

(i) that they may request a representative or professional adviser to give evidence on their behalf, and

(ii) that evidence may be given in writing, or in person by agreement with the Certifying Authority.

(4) Any decision made by the Certifying Authority following its review must be notified in writing to the persons mentioned in paragraph 3(b).

Arbitration

24.—(1) If an applicant is dissatisfied for any reason with the outcome of a review carried out by the Certifying Authority under regulation 23 (review application), the applicant may serve a written notice on the Certifying Authority within 21 days beginning with the date of receiving notification of the review decision—

(a) stating that there is a dispute in relation to the survey and the review decision, and

(b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to paragraphs (3), (4) and (6), an arbitrator referred to in paragraph (1) must be appointed by agreement between the applicant and the Certifying Authority.

(3) Except in relation to Scotland, if the applicant and the Certifying Authority are unable to agree an arbitrator—

(a) the arbitrator is such a person as may be appointed by an independent arbitration organisation nominated for that purpose by agreement between the applicant and the Certifying Authority, and

(b) where there is no agreement under paragraphs (2) and (3)(a), the arbitrator is such a person as may be appointed by the High Court following a request made by—

(i) one party, after giving written notice to the other party, or

(ii) the parties jointly.

(4) No person is to be an arbitrator under this regulation unless that person is—

(a) a person who holds a certificate of competency as a Class 1 Deck Officer or Class 1 Marine Engineer Officer, or a certificate of competency which is equivalent to such a certificate,

(b) a naval architect,

(c) a qualified person,

- (d) a person with special experience of shipping matters or of activities carried on in ports, or
 - (e) a member of the Chartered Institute of Arbitrators.
- (5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 259 of the 1995 Act (powers of inspectors).
- (6) In the application of this regulation to Scotland—
- (a) any reference to an arbitrator is to be construed as a reference to an arbiter, and
 - (b) the reference in paragraph (1) to a single arbitrator appointed by agreement between the applicant and the responsible person is to be construed as a reference to a single arbiter so appointed, or in default of agreement, appointed by a sheriff.
- (7) The rules for arbitration set out in Merchant Shipping Notice No. M.1613(a) apply unless alternative procedures are agreed between the applicant and the Secretary of State before the commencement of arbitration proceedings.
- (8) In this regulation—
- “applicant” means a person who makes an application for a certificate required by these Regulations;
- “the parties” means the applicant and the Certifying Authority, and “party” is to be construed accordingly;
- “qualified person” means—
- (i) a person who satisfies the judicial appointment eligibility condition on a seven-year basis within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007(b) (period over which a person is qualified),
 - (ii) a person who is an advocate or solicitor in Scotland of at least seven years’ standing, or
 - (iii) a person who is a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland of at least seven years’ standing.

Offences, penalties and defences

25.—(1) Any contravention of regulations 8(2) to (6) (survey requirements), 9 (requirement for a certificate), 17 (prohibited acts in relation to a certificate), 18(2) or (4) (reporting changes of circumstances and corrective action to be taken) or 19(1) (requirement to report incidents) is an offence in respect of each case of non-compliance.

(2) Subject to paragraph (3), any offence under paragraph (1) is an offence by the master and the owner of the vessel and is punishable—

- (a) on summary conviction—
 - (i) in England and Wales by a fine;
 - (ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum;
- (b) on conviction on indictment to imprisonment for a term not exceeding two years, or a fine, or both.

(3) Any offence under paragraph (1) in relation to a pilot boat is an offence by the competent harbour authority, the owner and the master of the boat in respect of each case of non-compliance and is punishable on a summary conviction by—

- (a) a fine not exceeding level 3 on the standard scale, in relation to an offence under regulation 9(b) and (e);
- (b) a fine not exceeding level 4 on the standard scale in all other cases.

(a) Merchant Shipping Notice No. M.1613 is available from the following address:
<https://assets.publishing.service.gov.uk/media/5a74bc7f40f0b619c865a03f/msn1613.pdf>.

(b) 2007 c. 15.

(4) In any proceedings for an offence under these Regulations, it is a defence for a person charged to prove that the person charged took all reasonable steps to avoid commission of the offence.

PART 4

Final provisions

Amendment

26. The amendments set out in Schedule 2 (amendments) have effect.

Review

27.—(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 the end of the period of five years beginning with the date on which these Regulations come into force.

(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(a) 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).

We consent to the making of these Regulations

Scott Mann
Stuart Anderson

20th November 2023

Two of the Lords Commissioners of His Majesty’s Treasury

Signed by authority of the Secretary of State for Transport

Davies of Gower
Parliamentary Under Secretary of State
Department for Transport

20th November 2023

(a) 2015 c. 26.

Statutory Instruments Disapplied

<i>Statutory Instruments</i>	<i>SI No.</i>	<i>Extent of disapplication</i>
The Merchant Shipping (Crew Accommodation) Regulations 1997 (a)	1997/1508	The whole instrument
The Merchant Shipping (Fire Protection: Small Ships) Regulations 1998 (b)	1998/1011	The whole instrument
The Merchant Shipping (Load Line) Regulations 1998 (c)	1998/2241	The whole instrument
Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (d)	2014/1613	Regulations 29(2) and 30
The Merchant Shipping (Survey and Certification) Regulations 2015 (e)	2015/508	The whole instrument
The Merchant Shipping (Marine Equipment) Regulations 2016 (f)	2016/1025	The whole instrument
The Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020 (g)	2020/501	The whole instrument
The Merchant Shipping (Safety of Navigation) Regulations 2020 (h)	2020/673	The whole instrument
Merchant Shipping (High Speed Offshore Service Craft) Regulations 2022 (i)	2022/41	The whole instrument
Merchant Shipping (High Speed Craft) Regulations 2022 (j)	2022/1219	The whole instrument
The Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2022 (k)	2022/1342	The whole instrument
The Merchant Shipping (Fire Protection) Regulations 2023 (l)	2023/568	The whole instrument

(a) S.I. 1997/1508, amended by S.I. 2005/2114, 2014/1614, 2016/1025.

(b) S.I. 1998/1011, amended by S.I. 1999/992, 1957, 2000/2687, 2003/2951, 2004/302, 2005/2114, 2010/680, 1075, 2016/1025, 2018/1221, 2022/1219, 1269, 2023/568.

(c) S.I. 1998/2241, amended by S.I. 1998/3052, 2000/1335, 2011/603, 2018/155.

(d) S.I. 1014/1613, amended by S.I. 2018/242, 667, 2020/1166, 2022/1219.

(e) S.I. 2015/508, as amended by S.I. 2018/53, 1221, 2022/41, 1169, 1219.

(f) S.I. 2016/1025, amended by S.I. 2019/42, 470, 1304, 2020/501, 1000, 2022/1219, 2023/568.

(g) S.I. 2020/501, amended by S.I. 2022/1219, 2023/787.

(h) S.I. 2020/673, amended by S.I. 2022/1219.

(i) S.I. 2022/41, amended by S.I. 2022/1219.

(j) S.I. 2022/1219.

(k) S.I. 2022/1342.

(l) S.I. 2023/568.

SCHEDULE 2

Regulation 26

Amendments

The Merchant Shipping (Official Log Books) Regulations 1981

1.—(1) The Merchant Shipping (Official Log Books) Regulations 1981(a) are amended as follows.

(2) In regulation 1(2) (interpretation), before the definition of “the Repatriation Regulations”, insert—

““remote operation centre” means any location other than a remotely operated unmanned vessel from which a remotely operated unmanned vessel is operated;

“remotely operated unmanned vessel” means a vessel that—

- (a) is operated from a remote operation centre, and
- (b) is not carrying any person at the time that it is operated;”.

(3) For regulation 2 (exemption from requirement for a UK ship to keep a log book) substitute—

“Exemption from the requirement to keep a log book

2.—(1) The requirement imposed under section 77(1) of the Merchant Shipping Act 1995 that an official log book must be kept in every United Kingdom ship does not apply—

- (a) to a ship belonging to a general lighthouse authority;
- (b) to a ship of less than 25 gross tons;
- (c) to a pleasure yacht;
- (d) subject to paragraph (2), to a remotely operated unmanned vessel.

(2) The log book for a remotely operated unmanned vessel must be kept at the remote operation centre for that vessel.”

The Merchant Shipping (Radio Installations) Regulations 1998

2.—(1) The Merchant Shipping (Radio Installations) Regulations 1998(b) are amended as follows.

(2) In regulation 2 (interpretation), after the definition of “Radio Regulations” insert—

““remote operation centre” means any location from which a remotely operated vessel is operated except that vessel;

“remotely operated unmanned vessel” means a vessel that—

- (a) is operated from a remote operation centre, and
- (b) is not carrying any person at the time that it is operated;”

(3) In regulation 3(2) (vessels to which the Regulations do not apply), after sub-paragraph (h) insert—

“(ha) remotely operated unmanned vessels;”.

The Merchant Shipping (Fees) Regulations 2018

3.—(1) The Merchant Shipping (Fees) Regulations 2018(c) are amended as follows.

(a) S.I. 1981/569, amended by S.I.1991/2145; there are other amending instruments but none is relevant.
(b) S.I. 1998/2070, amended by S.I. 2021/1316; there are other amending instruments but none is relevant.
(c) S.I. 2018/1104, to which there are amendments not relevant to these Regulations.

(2) 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 I (construction and equipment)—

- (a) omit the entry for the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998;
- (b) at the end—
 - (i) in the first column, insert “The Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023”;
 - (ii) in the second column, insert “2023/1216”;
 - (iii) in the third column, insert “None”.

The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021

4.—(1) The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021(a) are amended as follows.

(2) In regulation 3 (interpretation), after the definition of “Radio Regulations” insert—

““remote operation centre” means any location from which a remotely operated vessel is operated except that vessel;

“remotely operated unmanned vessel” means a vessel that—

- (a) is operated from a remote operation centre, and
- (b) is not carrying any person at the time that it is operated;”.

(3) In regulation 4(2) (vessels to which the Regulations do not apply), after sub-paragraph (g) insert—

“(ga) remotely operated unmanned vessels;”.

The Merchant Shipping (High Speed Craft) Regulations 2022

5.—(1) The Merchant Shipping (High Speed Craft) Regulations 2022(b) are amended as follows.

(2) In regulation 4(2)(i) (disapplication of the Regulations in relation to workboats and pilot boats) for “a Code of Practice referred to in regulation 5 of the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998” substitute “the Workboat Code Edition 3 referred to in regulation 3(1) of the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023”.

(a) S.I. 2021/1316, to which there are amendments not relevant to these Regulations.
(b) S.I. 2022/1219.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998 (S.I. 1998/1609) and the Merchant Shipping (Small Workboats and Pilot Boats) (Amendment) Regulations 2016 (S.I. 2016/354).

In these Regulations—

- Part 1 provides in regulations 1 to 7, for the revocation of earlier Regulations, definitions of terms used and information about the types of vessels to which these Regulations apply, the disapplication of other Regulations, the types of vessels that are exempted and where equivalent standards may apply;
- Part 2 provides in regulations 8 to 17, for survey and certification of vessels. This includes information on: periodical survey requirements, how applications for certificates may be made and determined and the duration, validity, extension or cancellation of a certificate or prohibitions in relation to certificates;
- Part 3 provides in regulations 18 to 25, for various changes in circumstances that may arise following certification of the vessel. In particular, these Regulations set out the responsibilities of owners and masters; the requirements to report incidents and deficient vessels; circumstances when vessels may be liable to be detained, the availability of a review or arbitration to settle disputes; and the offences, penalties and defences in relation to any breach of the Regulations;
- Part 4 provides in regulation 26 and Schedule 2, details of amendments it is necessary to make to other Regulations that are needed in connection with requirements for remotely operated unmanned vessels. Also, regulation 27 provides for a review of these Regulations to be undertaken at least every 5 years.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the MCA of Spring Place, 105 Commercial Road, Southampton SO15 1EG and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

© Crown copyright 2023

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.

£8.14

<http://www.legislation.gov.uk/id/uksi/2023/1216>

ISBN 978-0-34-825395-5



9 780348 253955