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STATUTORY INSTRUMENTS

2023 No. 787

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2023

Made - - - - - *17th July 2023*

Laid before Parliament *19th July 2023*

Coming into force *10th August 2023*

The Secretary of State makes these Regulations, with the consent of the Treasury, in exercise of the powers conferred by sections 85(1), (3)(c), (d), (f), (l), (o), (p) and (q), (5) to (7), 86(1)(a) to (c), 302(1) and 306A of the Merchant Shipping Act 1995(a).

In accordance with section 86(4) of that Act, the Secretary of State has consulted such persons as the Secretary of State considers will be affected by these Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2023 and come into force on 10th August 2023.

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

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

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

(2) In regulation 3 (interpretation)—

(a) in paragraph (1)—

(a) 1995 c. 21. Sections 85 and 86 were amended by the Merchant Shipping and Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7, Part 1. 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. Sections 85 and 86 are applied to hovercraft by the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350).

(b) S.I. 1999/1869, amended by S.I. 2010/680, 2010/1075, 2011/1043, 2019/649, 2021/81, 2022/1219 and 2023/246.

- (i) omit the definitions of “Area D”, “Community ship”, “the Directive”, “high speed craft”, “regular community service” and “regular service”;
- (ii) after the definition of “Category A, B, C or D waters” insert—
 - “the Convention” means the International Convention for the Safety of Life at Sea, 1974(a);”;
- (iii) for the definition of “international voyage” substitute—
 - “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 a 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;” and
- (b) omit paragraph (3).
- (3) In regulation 5 (passenger counting)—
 - (a) in paragraph (4A)(b), for “2023” substitute “2025”; and
 - (b) in paragraph (4B)(c), for “number of passengers” substitute “number of persons”.
- (4) For the heading to regulation 6 substitute “Additional requirements for ships on certain voyages”.
- (5) In regulation 6—
 - (a) in paragraph (1)(a)(i)—
 - (i) omit “the European Union or”; and
 - (ii) after “United Kingdom on a”, insert “non-international”;
 - (b) in paragraph (1)(a)(ii), for “comprising the European Union and” substitute “of”;
 - (c) for paragraph (1)(b) substitute—
 - “(b) any other passenger ship leaving any landing point in the United Kingdom—
 - (i) on a non-international voyage of more than 20 miles from that landing point to the next port of call except a ship operating exclusively in Category A, B, C or D waters; or
 - (ii) on an international voyage.” and
 - (d) in paragraph (2A)(d), for “2023” substitute “2025”.
- (6) For the heading to regulation 7 substitute “Ships which are on voyages from outside of the United Kingdom and are not United Kingdom ships”.
- (7) In regulation 7—

(a) 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, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=79786>). The Convention was modified by its Protocol of 1978 (Cmnd. 8277) (<https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=68013>), which was replaced and abrogated by the Protocol of 1988 (Cm 5044) (<https://treaties.fcdo.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, Commonwealth and Development Office treaties database (<https://treaties.fcdo.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. 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).

(b) Paragraph (4A) was inserted by regulation 2(4)(c) of S.I. 2021/81.

(c) Paragraph (4B) was inserted by regulation 2(4)(c) of S.I. 2021/81.

(d) Paragraph (2A) was inserted by regulation 2(5)(f) of S.I. 2021/81.

- (a) in the words before paragraph (a), omit “a Community ship, nor”; and
 - (b) for “comprising the European Union and” substitute “of”.
- (8) In regulation 8 (registration system), for paragraph (2)(b)(a) substitute—
- “(b) in any event, no later than the moment the ship’s voyage has been safely completed and the data reported in the National Single Window or, as the case may be, to the passenger registrar,
- after which it shall be erased without undue delay.”.
- (9) For regulation 9 (exemptions)(b) substitute—

“Exemptions

9.—(1) Subject to paragraph (3), the Secretary of State may, exempt any passenger ship, class of passenger ship or group of passenger ships engaged on non-international voyages from any requirement of these Regulations.

(2) Subject to paragraph (3), the Secretary of State may exempt any passenger ship, class of passenger ship or group of passenger ships engaged on international voyages from the requirements of regulations 6(2) or 7(b) in so far as those requirements relate to the information listed in regulation 6(3)(a) to (e), if the scheduled voyages of such ship, class of ship or group of ships render it impracticable for that ship, class of ship or group of ships, to comply with those requirements.

(3) An exemption under paragraph (1) or (2) may be granted subject to such safety conditions as the Secretary of State thinks fit to ensure the overall safety of the passenger ship, class of passenger ship or group of passenger ships.

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

(5) Where an exemption under paragraph (1) or (2) is granted subject to safety conditions under paragraph (3), the exemption ceases to have effect if those conditions are not complied with.

(6) An exemption under paragraph (1) or (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 the terms and safety conditions, if any, on which it is given.

(7) The requirement in paragraph (6)(a) that an exemption under paragraph (1) or (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;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.”.

Amendment of the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2021

3. In regulation 3(4) (review) of the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2021(c), for “other member States have implemented” to the end substitute “the obligations under regulation 27 of Part B of Chapter III in

(a) Paragraph (2)(b) was substituted by regulation 2(7)(c) of S.I. 2021/81.
(b) Regulation 9 was amended by regulation 2(8) of S.I. 2021/81.
(c) S.I. 2021/81.

the Annex to the International Convention for the Safety of Life at Sea, 1974 are implemented in other countries which are subject to those obligations.”.

Amendment of the Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020

4. In regulation 2 (interpretation) of the Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020(a), after the definition of “new ship” insert—

““Part B of Chapter III” means Part B of Chapter III other than regulation 27 of that Part (information on passengers)”.

Amendment of the Merchant Shipping (Fees) Regulations 2018

5.—(1) The Merchant Shipping (Fees) Regulations 2018(b) are amended as follows.

(2) In Schedule 1 (fees under the Merchant Shipping Act 1995), in Part 1 (surveys, inspections and applications for exemption), in the table in paragraph 5 (fees for inspections, etc.), in Section E (fire and lifesaving)—

(a) in the entry for the Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020, in the third column, for “None” substitute—

“2022/1219

2023/787”; and

(b) at the end—

(i) in the first column, insert “The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999”;

(ii) in the second column, insert “1999/1869”; and

(iii) in the third column, insert “2010/680, 2010/1075, 2011/1043, 2019/649, 2021/81, 2022/1219, 2023/246 and 2023/787”.

Review

6.—(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 22nd February 2026.

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

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(c) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under regulation 27 of Part B of Chapter III in the Annex to the Convention are implemented in other countries which are subject to those 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

(a) S.I. 2020/501, amended by S.I. 2022/1219.

(b) S.I. 2018/1104, amended by S.I. 2020/501 and 2022/1269. There are other amending instruments but none is relevant.

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

(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

17th July 2023

Vere
Parliamentary Under Secretary of State
Department for Transport

We consent to the making of these Regulations

13th July 2023

Scott Mann
Stuart Anderson
Two of the Lords Commissioners of His Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999 (S.I. 1999/1869) (“the 1999 Regulations”), the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2021 (S.I. 2021/81) (“the 2021 Regulations”) and the Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020 (S.I. 2020/501) (“the 2020 Regulations”).

Regulation 2(2)(a)(ii) inserts a definition for the International Convention for the Safety of Life at Sea, 1974 (“the Convention”) and regulation 2(2)(a)(iii) substitutes the definition of “international voyage” for the purposes of clarification. Regulations 2(2)(a)(i), 2(2)(b), 2(5)(a)(i), 2(5)(b) and 2(7) remove references that are no longer required. Regulations 2(3)(a) and 2(5)(d) defer the date by which seagoing passenger ships are obliged to report data electronically through the National Single Window or report the number of persons on board a ship through the Automatic Identification System to 20th December 2025. Regulation 2(3)(b) amends regulation 5(4B) of the 1999 Regulations to provide that the requirement to report data through the National Single Window applies in relation to all persons on board a ship and not just passengers. Regulation 5(a)(ii) and (c) amend regulation 6 of the 1999 Regulations to apply the additional information requirements in that regulation to all passenger ships on all international voyages as well as those on voyages of more than 20 miles from the relevant landing point. Regulation 2(8) specifies that the requirement to erase personal data applies in relation to both paragraphs (2)(a) and (2)(b) of regulation 8 of the 1999 Regulations. Regulation 2(9) substitutes a new exemption provision for regulation 9 of the 1999 Regulations.

Regulation 3 amends the review provision in regulation 3(4) of the 2021 Regulations to take into account how other countries have implemented regulation 27 of Part B of Chapter III in the Annex to the Convention.

Regulation 4 amends regulation 2 of the 2020 Regulations to remove the duplication of provisions in those Regulations and in the 1999 Regulations which implement the requirements of regulation 27 of Part B of Chapter III in the Annex to the Convention.

Regulation 5 amends the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104) to enable the Secretary of State to charge fees for certain actions (such as charging for exemptions) carried out under the 1999 Regulations.

Regulation 6 requires the Secretary of State to review the operation and effect of these Regulations and publish a report before 22nd February 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.

Merchant Shipping Notice 1794 (M) Amendment 2 provides information on how the 1999 Regulations (as amended by these Regulations) work in practice and is available on www.gov.uk/topic/ships-cargoes/m-notices 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).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

An Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

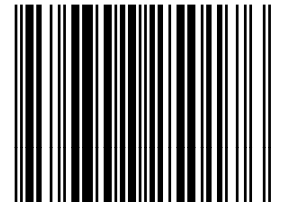
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