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STATUTORY INSTRUMENTS

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**2023 No. 0000**

**MERCHANT SHIPPING**

**SAFETY**

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

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|-------------------------------|---------|------|
| <i>Made</i>                   | - - - - | 2023 |
| <i>Laid before Parliament</i> |         | 2023 |
| <i>Coming into force</i>      | - -     | 2023 |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 85(1), (3)(c), (d), (f), (l), (o), (p) and (q), (5) to (7) and 86(1)(a) to (c) 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 XX XXXXX 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) omit the definitions of “Area D”, “Community ship”, “the Directive”, “high speed craft”, “regular community service” and “regular service”;

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(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). There are other amendments to section 85 which are not relevant to these Regulations.

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

- (b) 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);”;
  - (c) in the definition of “international voyage”, for “International Convention for the Safety of Life at Sea” substitute “the Convention”; and
  - (d) 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) In regulation 6 (additional requirements for voyages of more than 20 miles)—
- (a) in paragraph (1)(a)(i), omit “the European Union or”;
  - (b) in paragraph (1)(a)(ii), for “comprising the European Union and” substitute “of”; and
  - (c) in paragraph (2A)(d), for “2023” substitute “2025”.
- (5) In regulation 7 (Ships which are on voyages from outside the European Union and the United Kingdom and are neither Community Ships nor United Kingdom ships)—
- (a) for the heading, substitute “ships which are on voyages from outside of the United Kingdom and are not United Kingdom ships”;
  - (b) in the introductory words, omit “a Community ship, nor”; and
  - (c) for “comprising the European Union and” substitute “of”.
- (6) In regulation 8 (registration system), for paragraph (2)(b)(e), 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.”.
- (7) For regulation 9 (exemptions)(f), substitute—

### “Exemptions

9.—(1) Subject to paragraph (2), the Secretary of State may, on such terms, if any, as may be specified, exempt any passenger ship, class of passenger ships or group of passenger ships from any requirement of these Regulations if satisfied that compliance with such requirement is either impracticable or unreasonable in the case of that passenger ship, class of passenger ships or group of passenger ships.

(2) An exemption under paragraph (1) relating to a passenger ship, class of passenger ships or group of passenger ships which is subject to the Convention must comply with the requirements of the Convention.

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- (a) Cmnd 7874. The Convention may be obtained in copy from the International Maritime Organization (“IMO”) of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office (“FCDO”) 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 IMO or found on the FCDO 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. 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) inserted by regulation 2(4)(c) of S.I. 2021/81.
  - (c) Paragraph (4B) inserted by regulation 2(4)(c) of S.I. 2021/81.
  - (d) Paragraph 6(2A) inserted by regulation 2(5)(f) of S.I. 2021/81.
  - (e) Paragraph 2(b) inserted by regulation 2(7)(c) of S.I. 2021/81.
  - (f) Regulation 9 was amended regulation 2(8) of S.I. 2021/81.

(3) An exemption under paragraph (1) 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 ships or group of passenger ships (as the case may be).

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

(5) Where an exemption under paragraph (1) 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 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 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(a), for “other member States have implemented Council Directive 2017/2109 EC of 15<sup>th</sup> November 2017”, substitute “other countries which are subject to the obligations under the Convention have implemented the obligations to the extent they are required to do so”.

#### **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(b), after the definition of “new ship” insert—

““Part B of Chapter III” means Part B of Chapter III except for regulation 27(c) in that Part (information on passengers);”.

Signed by authority of the Secretary of State for Transport

Parliamentary Under Secretary of State  
Department for Transport

Date

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- (a) S.I. 2021/81.
  - (b) S.I. 2020/501.
  - (c) Regulation 27 in Part B of Chapter III of the Convention (information on passengers) places an obligation on the owner of a passenger ship to have a system capable of counting all persons on board and collecting specified information for transmission in the event of an emergency. For the purposes of S.I. 2020/501, Part B of Chapter III of the Convention does not include regulation 27 of the Convention because this obligation is implemented in S.I. 1999/1869.

## **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 (“the 2020 Regulations”).

Regulations 2(2)(a), 2(2)(c), 2(2)(d), 2(4)(a), 2(4)(b) and 2(5) remove references that are no longer required. Regulation 2(2)(b) inserts a definition for the International Convention for the Safety of Life at Sea (“SOLAS”), 1974. Regulations 2(3)(a) and 2(4)(c) 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 20 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 2(6) 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(7) substitutes a new exemption provision for Regulation 9 of the 1999 Regulations.

Regulation 3 amends Regulation 3(4) of the 2021 Regulations to reflect that the UK is no longer a member of the European Union.

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

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](http://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](mailto: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.