

**2021 No. XXX**

**MERCHANT SHIPPING**

**SAFETY**

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

<i>Made</i> - - - -	<i>xxx 2021</i>
<i>Laid before Parliament</i>	<i>xxx 2021</i>
<i>Coming into force</i> - -	<i>xxx 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), (d), (e), (f), (h), (k), (l), (n), (o) and (p) 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 amendments

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

(2) The amendments listed in Schedule 1 have effect.

#### Interpretation

2. In these Regulations—

“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);

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

“international voyage” means a voyage between—

(a) a port in the United Kingdom and a port outside the United Kingdom; or

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- (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), MSC.152(78) (Cm 7205), MSC.201(81), MSC.239(83), 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. 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) 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;

“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 which is in force at any time(b).

## Application

3.—(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 Contracting Government 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;

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- (a) The Radio Regulations are made at a World Radio-communication Conference in accordance with Article 13 of the International Telecommunication Convention; the existing Radio Regulations were published in 2016 and may be 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) The Constitution and Convention of the International Telecommunication Union was most recently amended in 2018. The Convention and its amendments may be found on the International Telecommunications Union website at <https://www.itu.int/en/history/Pages/ConstitutionAndConvention.aspx>.
  - (c) S.I. 1998/2070, amended by S.I. 2000/2687, 2016/1025, 2018/1221 (prospectively) and 2021/xxx; there are other amending instruments but none is relevant.
  - (d) S.I. 2000/2687, amended by S.I. 2004/302, 2004/2883, 2010/1075, 2012/2636, 2018/53 and prospectively by 2018/1221; there are other amending instruments but none is relevant.
  - (e) S.I. 2004/302, amended by S.I. 2004/2883, 2012/2636, 2016/1025 and prospectively by 2018/1221; there are other amending instruments but none is relevant.

- (k) ships navigating 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 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<sup>(a)</sup>,

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 prevents the use on any ship or survival craft, or by any person in distress, of any means available to them to attract attention, make known their position and attract assistance.

(6) In this regulation—

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

“Contracting Government” means the Government of a State which is a party to the Convention;

“gross tonnage” means gross tonnage as determined in accordance with regulation 6 of the Merchant Shipping (Tonnage) Regulations 1997<sup>(b)</sup>;

“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,

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

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(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).

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

relative of the individual or the individual's spouse or civil partner; and "relative" means brother, sister, ancestor or lineal descendant.

## **Exemptions**

**4.—**(1) Subject to paragraph (5), the Secretary of State may exempt 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 (5), the Secretary of State may, in exceptional circumstances not provided for in paragraph (1), exempt from any provision of Chapter IV 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.

(3) Subject to paragraphs (4) and (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 a partial exemption from the requirements of regulations 7 to 11 of Chapter IV in respect of an individual ship provided the functional requirements of regulation 4 of Chapter IV are satisfied in respect of that ship.

(4) A partial exemption under paragraph (3) may be granted only—

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

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

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

(7) An exemption granted under paragraph (1) or (2), a partial exemption under paragraph (3) or an alteration or cancellation under paragraph (6), 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 (1) or (2), a partial exemption under paragraph (3) or an alteration or cancellation under paragraph (6) 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.

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

## **Equivalents**

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

- (a) a particular radio communications appliance or type of radio communications appliance (which may include any fitting, material or apparatus) be fitted on, or carried in, a ship;
- (b) any particular radio communications 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 radio communications appliance, radio communications 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**

**6.**—(1) In these Regulations, any reference to Chapter IV or the Radio Regulations is to be construed—

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

(2) For the purposes of paragraph (1), Chapter IV or 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 the Radio Regulations, in accordance with the relevant provisions governing that instrument.

(3) A modification or replacement of Chapter IV or 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 the Radio Regulations, in accordance with the relevant provisions governing that instrument.

## **PART 2**

### **Ship Requirements**

#### **Functional requirements**

**7.**—(1) Subject to paragraph (2), a ship to which these Regulations apply, while at sea, must comply with each requirement in regulation 4 of Chapter IV applicable to that ship.

(2) Regulation 19.2.3.2 of Chapter V of the Convention (a) applies in relation to receiving signals for locating.

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(a) Chapter V makes provision for the safety of navigation.

## PART 3

### Requirements relating to Radio Installations, Equipment etc.

#### Performance standards

- 8.** All equipment fitted on or carried in a ship to which these Regulations apply must—
- (a) in relation to a United Kingdom ship, be of a type—
    - (i) approved by the Secretary of State in accordance with the Merchant Shipping (Marine Equipment) Regulations 2016(a); and
    - (ii) which conforms to performance standards described in Marine Guidance Note (MGN) xxxx; or
  - (b) in relation to a non-United Kingdom ship, conform to appropriate performance standards not inferior to those described in Marine Guidance Note (MGN) xxxx.

#### Radio installations and equipment

- 9.** Subject to regulation 4 and 10, a ship to which these Regulations apply 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); and
  - (c) to the extent that these provisions apply—
    - (i) regulation 8 (radio equipment: sea area A1);
    - (ii) regulation 9 (radio equipment: sea areas A1 and A2);
    - (iii) regulation 10 (radio equipment: sea areas A1, A2 and A3); or
    - (iv) regulation 11 (radio equipment: sea areas A1, A2, A3 and A4).

#### Radio equipment: exemptions

**10.**—(1) Subject to paragraph (2), the Secretary of State may exempt from the requirements of regulations 7.1.1.1 and 7.1.2 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.

(2) This regulation ceases to have effect on 1st January 2024.

#### Watches, maintenance requirements, radio personnel and records etc.

- 11.** A ship to which these Regulations apply must—
- (a) comply with each requirement in the following regulations in Chapter IV applicable to that ship—
    - (i) regulation 12(b) (watches);
    - (ii) regulation 13 (sources of energy);

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(a) S.I. 2016/1025, amended by S.I. 2019/470.

(b) See Resolution MSC.131(75) adopted on 21 May 2002.

- (iii) regulation 15 (maintenance requirements);
  - (iv) regulation 16(a) (radio personnel);
  - (v) regulation 17 (radio records); and
  - (vi) regulation 18 (position-updating);
- (b) ensure the means of determining that equipment carried on the ship to ensure the availability of the required capability specified in regulation 4 (functional requirements) of Chapter IV is of a type approved in section 5 of Marine Guidance Note (MGN) xxxx;
  - (c) provide adequate information to enable equipment on the ship to be properly operated and maintained in accordance with the matters set out in section 6 of Marine Guidance Note (MGN) xxxx;
  - (d) carry personnel qualified for distress and safety radiocommunication purposes in accordance with the matters set out in section 7 of Marine Guidance Notice (MGN) xxxx;
  - (e) maintain records in accordance with the matters set out in section 8 of Marine Guidance Note (MGN) xxxx;
  - (f) in the case of a United Kingdom ship, perform the equipment tests and reserve power checks as specified in Schedule 2.

## PART 4

### Control and enforcement

#### Offences and penalties

12.—(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) If a person in respect of whom paragraph (3) applies fails to carry out the steps specified in paragraph (4), that person is guilty of an offence in respect of each case of non-compliance.

(3) Paragraph (2) applies to a person on a United Kingdom ship—

- (a) who holds an operator certificate of a type described in Articles 47.20 to 47.23 of the Radio Regulations; and
- (b) who has been designated by the master to carry out the matters specified in Schedule 2.

(4) The specified steps are to—

- (a) carry out the tests and checks specified in Schedule 2 while the ship is at sea;
- (b) comply with regulation 11(e); and
- (c) inform the master if any radio installations required by these Regulations are not in working order.

(5) 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

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(a) See the footnote to regulation 6(4)(c) in respect of the Seafarers' Training, Certification and Watchkeeping Convention. The Seafarers' Training, Certification and Watchkeeping (STCW) Code is made under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers. The Code was adopted in 2010 in accordance with article XII of the Convention; section B/IV-2 contains guidance relating to the training and certification of radio operators. The existing version of the Code came into force on 1 January 2012 following the Manila Conference of Parties to the STCW Convention. The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and its amendments 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/responsive/app/consolidatedSearch/>).



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

(6) 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**

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

(2) A ship which does not comply with a requirement in Chapter IV applicable to that ship 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 ship other than a 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.

## **Review of the Regulations**

**14.**—(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 [DATE] 2026.

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(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).

(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

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department for Transport

We consent	<i>Name</i>
	<i>Name</i>

Date	Two of the Lords Commissioners of Her Majesty’s Treasury
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## SCHEDULE 1

Regulation 1

### Part 1: Amendments to the Merchant Shipping (Radio Installations) Regulations 1998

1. The Merchant Shipping (Radio Installations) Regulations 1998(b) are amended as follows.
2. In regulation 2 (interpretation)—
  - (a) omit the definition of “1984 Regulations”;
  - (b) omit the definitions of “certificated radio operator” and “EEA state”;
  - (c) omit the definition of “first periodical survey”;
  - (d) in the definition of “interference” for “Wireless Telegraphy Act 1949” substitute “Wireless Telegraphy Act 2006”;
  - (e) omit the definition of “Maritime and Coastguard Agency”;

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(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.

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

- (f) 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;”;
- (g) after the definition of “Merchant Shipping Notice” insert—
  - ““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;”;
- (h) omit the definitions of “non-GMDSS ship” and “Organisation”;
- (i) omit the definition of “pleasure vessel”;
- (j) in the definition of “Radio Regulations” from the words “International Telecommunication Convention” to the end substitute “Constitution and Convention of the International Telecommunication Union which is in force at any time;”;
- (k) 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 to which the Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 apply;
  - (b) ships of war and naval auxiliaries;
  - (c) ships owned or operated by a state and engaged only on governmental non-commercial service;
  - (d) ships engaged on an international voyage;
  - (e) ships operating only in category A, B, C and D waters;
  - (f) ships not propelled by mechanical means;
  - (g) cargo ships of less than 300 gross tonnage;
  - (h) pleasure vessels;
  - (i) fishing vessels;
  - (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 navigating 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) In this regulation—**
  - “category A”, “category B”, “category C” and “category D” as they relate to the categorisation of waters have the same meanings as in Merchant Shipping Notice (MSN) 1837(M) Amendment 2;
  - “international voyage” means a voyage between a port in the United Kingdom and a port outside the United Kingdom;
  - “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,

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.”.

**4. In regulation 5 (equivalents and exemptions) for paragraph (3) substitute—**

“(3) Where paragraph (4) applies, the Secretary of State may grant a partial exemption from the requirements of these Regulations in respect of an individual ship provided the functional requirements in section 3 of Merchant Shipping Notice (MSN) xxxx 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 sections 6 to 10 of Merchant Shipping Notice (MSN) xxxx unreasonable; or
- (b) in exceptional circumstances in respect of a single voyage outside the sea area or areas for which the ship is equipped.

(5) The Secretary of State may, in exceptional circumstances not provided for by virtue of paragraph (3), exempt from any provision of Merchant Shipping Notice [ ] 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) A partial exemption under paragraph (3) or exemption under paragraph (5) may be—

- (a) 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, altered or cancelled.

(7) A partial exemption granted under paragraph (3), an exemption under paragraph (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 the partial exemption granted under paragraph (3), an exemption under paragraph (5) or an alteration or cancellation under paragraph (6)(b) 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.

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

(10) In this regulation, “EEA state” has the meaning given by Schedule 1 to the Interpretation Act 1978(a).”.

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

- (a) omit subparagraph (a);
- (b) in subparagraph (c) for “Merchant Shipping Notice No M 1714” substitute “Merchant Shipping Notice (MSN) xxxx”.

6. For regulation 7 substitute—

#### **“Ship requirements**

7. A ship to which these Regulations apply must comply with each of the requirements applicable to that ship prescribed by Merchant Shipping Notices (MSN) [XXXX] and [XXXX].”.

7. Omit—

- (a) regulations 8 to 48; and
- (b) Schedules 1 and 3 to 7.

8. 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) A ship which does not comply with a requirement in Merchant Shipping Notice [ ] 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;
  - (ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;

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(a) 1978 c. 30. Schedule 1 was amended by the Legislative Reform Act 2006 (2006 c. 51), section 26(1) and the European Union (Withdrawal) Act 2018 (2018 c. 16), section 23 and Schedule 8.

(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 ship other than a 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.”.

**9.** In regulation 50 (penalties)—

(a) omit “radiotelephone operator or radio officer or a”;

(b) for “regulation 18(7) of these Regulations” substitute “section 13.8 of Merchant Shipping Notice (MSN) xxxx”.

**10.** 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 [DATE] 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).”.

## **Part 2: Amendments to other instruments**

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

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

**12.** 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” add “2016/1025” and “2021/XXXX”.

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(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.

## The Merchant Shipping (Fees) Regulations 2018

13. The Merchant Shipping (Fees) Regulations 2018(a) are amended as follows.

14. 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/XXXX”.

## SCHEDULE 2

Regulation 11

### 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. Subject to paragraph (3), at least once every week—
  - (a) 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;
  - (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—

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

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

## 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 (“SOLAS” or “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 radio communications 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 SOLAS 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, will be automatically incorporated into these regulations by way of the ambulatory reference provision (regulation 6) using the power in section 306A of the Merchant Shipping Act 1995.

These Regulations provide for the granting of exemptions (regulation 4) and the approval of equivalents (regulation 5).

Regulations 7 to 11 apply the technical requirements in Chapter IV to ships engaged on international voyages. Regulation 8 makes provision for performance standards (including certain performance standards set out in Marine Guidance Note (MGN) xxxx). Regulation 10(2) contains a sunset provision under which regulation 10 will cease to have effect on 1st January 2024 (reflecting the expected cessation in effect of the provision in regulation 7 of Chapter IV to which regulation 10 relates). Regulation 11 makes provision for watches etc. (including in relation to maintenance requirements, radio personnel and radio records) as well as provision for recommendations etc. set out in Marine Guidance Note (MGN) xxxx).

Regulation 12 makes provision for a number of offences. Regulation 12(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 12(2) makes it an offence by specified persons (e.g. radio operators) to fail to carry out specified actions (e.g. to carry out the tests specified in Schedule 2). Regulation 13 contains power to detain a ship in cases of non-compliance with these Regulations.

Regulation 14 requires the Secretary of State to review the operation and effect of these Regulations and publish a report before [DATE] 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. These are set out in Merchant Shipping Notices (MSN) xxxx and xxxx.

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](mailto: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 Marine Information Note XXX(M), 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>.

An impact assessment of the effect of this instrument has been produced and is published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).