

2018 No. 000

EXITING THE EUROPEAN UNION

MERCHANT SHIPPING

HEALTH AND SAFETY

**The Merchant Shipping and Fishing Vessels (Health and Safety
at Work) (Miscellaneous Amendments) (EU Exit) Regulations
2018**

<i>Sift requirements satisfied</i>	2018
<i>Made</i> - - - -	2018
<i>Laid before Parliament</i>	2018
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), by sections 85(1)(a) and (b), (3) and (5) and 86(1) and (2) of the Merchant Shipping Act 1995(b), and by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(c).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

In accordance with section 86(4) of the Merchant Shipping Act 1995 the Secretary of State has consulted the persons referred to in that section.

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to maritime transport(d), and measures relating to the safety of ships and the health and safety of persons on them(e).

Citation and commencement

1.—(1) These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Miscellaneous Amendments) (EU Exit) Regulations 2018.

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- (a) 1972 c. 68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
(b) 1995 c. 21; sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8.
(c) 2018 c. 16.
(d) S.I. 1994/757.
(e) S.I. 1993/595.

- (2) Subject to paragraph (3), these Regulations come into force on exit day.
- (3) This Regulation and regulation 2 come into force on the 22nd after the day on which these Regulations are laid.

PART 1

Amendments which take effect before exit day

Amendment of the Merchant Shipping and Fishing Vessels (Medical Stores) Regulations 1995

2.—(1) The Merchant Shipping and Fishing Vessels (Medical Stores) Regulations 1995(a) are amended as follows.

- (2) In regulation 1(3) (citation, commencement, revocation and interpretation)—
- (a) in the definition of “dangerous substances” for “Merchant Shipping Notice M. 1608” substitute “Annex 4 of Merchant Shipping Notice 1768 (M+F)”;
 - (b) for the definition of “Government ships” substitute—
““Government ships” has the meaning given in section 308(4) of the Merchant Shipping Act 1995”;
 - (c) in the definition of “inland navigation” for “Merchant Shipping Notice M. 1504” substitute “Merchant Shipping Notice 1837(M) Amendment 2”;
 - (d) omit the definition of “Marine Safety Agency”;
 - (e) for the definition of “Merchant Shipping Notice” substitute—
““Merchant Shipping Notice” means a Notice described as such, 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;”
 - (f) in the definition of “Ship Captain’s Medical Guide”(b) for “the Marine Safety Agency” substitute “the Maritime and Coastguard Agency (an executive agency of the Department for Transport)”.
- (3) In regulation 4(1) (carriage of medical stores) in column 2 of the Table—
- (a) for “Merchant Shipping Notice M. 1607”, in each place it occurs, substitute “Merchant Shipping Notice 1768 (M+F)”; and
 - (b) for “Merchant Shipping Notice M. 1608” substitute “Merchant Shipping Notice 1768 (M+F)”.
- (4) In regulation 6 (standards of medical stores) for “Merchant Shipping Notice M. 1607 or M. 1608” substitute “Merchant Shipping Notice 1768 (M+F)”.
- (5) In regulation 7(3) (packaging and labelling of containers)—
- (a) in sub-paragraphs (a), (b) and (h) for “Merchant Shipping Notice M. 1607 or M. 1608” substitute “Merchant Shipping Notice 1768 (M+F)”;
 - (b) in sub-paragraphs (e) and (f) for “Merchant Shipping Notice M. 1607” substitute “Merchant Shipping Notice 1768 (M+F)”; and
 - (c) in sub-paragraph (f) omit “paragraph 8 of Schedule 4 to”.

(a) S.I. 1995/1802, amended by S.I. 1996/2821, 1997/2971.

(b) A copy of the Ship Captain’s Medical Guide published in 2014 by the Department for Transport may be downloaded from <https://www.gov.uk/government/publications/the-ship-captains-medical-guide>. The Guide is available for inspection free of charge but by appointment at the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG (infoline@mcga.gov.uk and 0203 817 2000).

(6) In regulation 8 (storage of medicines)—

(a) in paragraph (1) for “Merchant Shipping Notice M. 1607 or M. 1608” substitute “Merchant Shipping Notice 1768 (M+F)”; and

(b) for paragraph (3)(a) substitute—

“(a) in the medical cabinet if there is one; or”.

(7) In regulation 9(a) (replenishment of dated medicines) for “Merchant Shipping Notices M. 1607 and M. 1608” substitute “Merchant Shipping Notice 1768 (M+F)”.

(8) In regulation 10 (carriage of guides) for “Merchant Shipping Notices M. 1607 and M. 1608” substitute “Merchant Shipping Notice 1768 (M+F)”.

PART 2

Amendments which take effect on exit day

Amendment of the Merchant Shipping and Fishing Vessels (Medical Stores) Regulations 1995

3. In the Merchant Shipping and Fishing Vessels (Medical Stores) Regulations 1995 omit regulation 2 (purpose of regulation).

Amendment of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997

4.—(1) The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997(a) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (2) omit the definition of “Directive 2014/27/EU”; and

(b) for paragraph (3) substitute—

“(3) Subject to paragraph (2), words and expressions used in the Regulations have the same meaning as in Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the health and safety of workers at work(b), as it had effect immediately before exit day”.

(3) In regulation 8(1)(b) (new or expectant mothers) for “Annexes I and II of Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the health and safety at work of pregnant workers who have recently given birth or are breast-feeding, as amended by Directive 2014/27/EU” substitute “Annex A and B of Merchant Shipping Notice 1890 (M+F)”.

Amendment of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998

5.—(1) The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998(c) are amended as follows.

(2) In regulation 2(3) (interpretation) substitute—

“(3) Subject to paragraph (2), words and expressions used in the Regulations shall have the same meaning as in Council Directive 94/33/EC on the protection of young people at work(d), as it had effect immediately before exit day.”.

(a) S.I. 1997/2962, amended by S.I. 2015/21; there are other amending instruments but none is relevant.

(b) OJ No. L 183, 29.06.1989, p. 1, as last amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council OJ No. L 311, 21.11.2008, p. 1.

(c) S.I. 1998/2411, amended by S.I. 2015/21; there is another amending instrument but it is not relevant.

(d) OJ No. L 216, 20.08.1994, p. 12, as last amended by Directive 2014/27/EU of the European Parliament and of the Council OJ No. L 65, 05.03.2014, p. 1.

(3) In the Schedule (non-exhaustive list of agents, process and work)—

(a) for paragraph 2(a) substitute—

“(2) (a) Biological agents which are group 3 biological agents or group 4 biological agents, as defined in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010(a).”; and

(b) in paragraph 3(a) after “classification under” insert “Annex I to”.

Amendment of the Merchant Shipping and Fishing Vessels (Safety Signs and Signals) Regulations 2001

6.—(1) The Merchant Shipping and Fishing Vessels (Safety Signs and Signals) Regulations 2001(b) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) omit the definitions of “the Directive” and “Directive 2014/27/EU”;

(b) for the definition of “safety colour” substitute—

““safety colour” means a colour to which a specific meaning is assigned in Part 1 of Schedule 1 to the Safety Signs Regulations;”; and

(c) after the definition of “safety sign” insert—

““Safety Signs Regulations” means the Health and Safety (Safety Signs and Signals) Regulations 1996(c);”.

(3) In regulation 5 (provision and maintenance of safety signs)—

(a) in paragraph (2)(a) for “Annexes I to VII of the Directive” substitute “Parts I to VII of Schedule 1 to the Safety Signs Regulations”;

(b) in paragraph (2)(b) for “Annexes I, VIII and IX of the Directive” substitute “Parts I, VIII and IX of Schedule 1 to the Safety Signs Regulations”; and

(c) in paragraph (5) for “Annex IX to the Directive” substitute “Part IX of Schedule 1 to the Safety Signs Regulations”.

Amendment of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007

7.—(1) The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007(d) are amended as follows.

(2) In regulation 2(1) (interpretation) after the definition of “health and safety” insert—

““ionising radiation” means the transfer of energy in the form of particles or electromagnetic waves of a wavelength of 100 nanometres or less or a frequency of 3×10^{15} hertz or more capable of producing ions directly or indirectly;”.

(3) In regulation 3(4)(a) (application) for “radiation covered by the Treaty establishing the European Atomic Energy Community” substitute “ionising radiation”.

Amendment of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010

8.—(1) The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010(e) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) S.I. 2010/323, to which there are amendments not relevant to these Regulations.

(b) S.I. 2001/3444, amended by S.I. 2015/21.

(c) S.I. 1996/341, amended by SI 2015/21; there are other amending instruments but none is relevant.

(d) S.I. 2007/3100, amended by S.I. 2010/1110, 2015/21.

(e) S.I. 2010/323, to which there are amendments not relevant to these Regulations.

- (a) in paragraph (1)—
 - (i) for the definition of “biological agents” substitute—

““biological agents” means micro-organisms, cell cultures, or human endoparasites, whether or not genetically modified, which may cause infection, allergy, toxicity or otherwise create a hazard to human health;”
 - (ii) in the definition of “group 2 biological agent” omit “in Annex III to the Directive or”;
 - (iii) in the definition of “group 3 biological agent” omit “in Annex III to the Directive or”; a
 - (iv) in the definition of “group 4 biological agent” omit “in Annex III to the Directive or”;
 - (v) omit the definition of “MCA”; and
 - (vi) for the definition of “Merchant Shipping Notice” substitute—

““Merchant Shipping Notice” means a Notice described as such, 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;” and
- (b) Omit paragraph (2).
- (3) In regulation 4(6) (application) for “Annex I to the Directive” substitute “Annex 1 of Merchant Shipping Notice 1889 (M+F)”.
- (4) In regulation 7 (classification of biological agents)—
 - (a) in paragraphs (1) and (3) omit “Annex III to the Directive or in”; and
 - (b) omit paragraph (4).
- (5) In regulation 9(2)(e) (reduction of risks) for “Annex II to the Directive” substitute “Annex 2 of Merchant Shipping Notice 1889 (M+F)”.
- (6) In regulation 17 (health surveillance)—
 - (a) in paragraph (3) for “Annex VII to the Directive” substitute “Annex 3 of Merchant Shipping Notice 1889 (M+F)”, and
 - (b) in paragraph (9) for “Annex IV to the Directive” substitute “Annex 4 of Merchant Shipping Notice 1889 (M+F)”.
- (7) In regulation 19(3) (health and veterinary care facilities) for “Annex V to the Directive” substitute “Annex 5 of Merchant Shipping Notice 1889 (M+F)”.
- (8) In regulations 20 (special measures for industrial processes, laboratories and animal rooms)—
 - (a) in paragraphs (1)(a), (b), (c) and (d)(i) and (ii) for “Annex V to the Directive” substitute “Annex 5 of Merchant Shipping Notice 1889 (M+F)”;
 - (b) in paragraph (2) for “Annex VI to the Directive” substitute “Schedule 3, Part 3 to the Control of Substances Hazardous to Health Regulations 2002”(a).
 - (c) in paragraph (4) for “Annex V to the Directive” substitute “Annex 5 of Merchant Shipping Notice 1889 (M+F)”.

(a) S.I. 2002/2677, to which there are amendments not relevant to these Regulations.

Amendment of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010

9.—(1) The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010(a) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1) —

(i) in the definition of “hazardous chemical agent” —

(aa) after the words “hazard class laid down in” insert “Annex I to”; and

(bb) for “an occupational exposure limit value under Article 3 of the Directive” substitute “a national occupational exposure limit value”,

(ii) for the definition of “national occupational exposure limit value” substitute—

“national occupational exposure limit value” in relation to a chemical agent means any workplace exposure limit established for that agent in document EH40(b),

(iii) after the definition of “occupational exposure limit value” insert—

“the REACH Regulation” means Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency;”, and

(iv) after the definition of “representative” insert—

“safety data sheet” means a safety data sheet within the meaning of Article 31 of and Annex II to the REACH Regulation;”, and

(b) in paragraph (2) for “as amended from time to time” substitute “as it had effect immediately before exit day”.

(3) In regulation 5 (application of related legislation)—

(a) for paragraph (2)(a) substitute—

“(a) any provisions for the protection of workers from ionising radiation;”, and

(b) for paragraph (3) substitute—

“(3) In this regulation—

(a) “IBC Code” and “IGC Code” have the same meaning as in the Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018(c); and

(b) “IMDG Code” has the same meaning as in the Dangerous Goods in Harbour Areas Regulations 2016(d).”.

(4) In regulation 6 (assessment of health risks) in paragraph (3) omit “and, where appropriate, that information shall comprise the specific assessment concerning the risk to users established on the basis of EU legislation on chemical agents”.

(5) In regulation 10 (information and training for workers)—

(a) in paragraph (3) for “regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002” substitute “Article 31 of and Annex II to the REACH Regulation”,

(b) for paragraph (5)(a) substitute—

(a) S.I. 2010/330, amended by S.I. 2012/1844, 2015/21.

(b) The document EH40 published in 2013 by the Health and Safety Executive may be downloaded from <http://www.hse.gov.uk/pUbns/priced/eh40.pdf> and a copy may be obtained by writing to Health and Safety Executive Books at PO Box 1999, Sudbury, Suffolk CO10 2WA or via <https://books.hse.gov.uk>.

(c) S.I. 2018/68.

(d) S.I. 2016/721, to which there are amendments not relevant to these Regulations.

“(a) marked in accordance with the CLP Regulation and Schedule 1, Part III to the Health and Safety (Safety Signs and Signals) Regulations 1996(a);or”, and

(c) omit paragraph (6).

(6) In regulation 11 (prohibited activities)—

(a) in paragraph (1)(a) for “part (a) of Annex III to the Directive” substitute “part (a) of Annex 1 of Merchant Shipping Notice 1888 (M+F)”,

(b) in paragraph (1)(b) for “part (b) of that Annex” substitute “part (b) of Annex 1 of Merchant Shipping Notice 1888 (M+F)”,

(c) in paragraph (2)(c) for “part (a) of Annex III to the Directive” substitute “part (a) of Annex 1 of Merchant Shipping Notice 1888 (M+F)”,

(d) in paragraph (6)(a) for “part (a) of Annex III to the Directive” substitute “part (a) of Annex 1 of Merchant Shipping Notice 1888 (M+F)”, and

(e) in paragraph (6)(b) for “part (a) of Annex III to the Directive” substitute “part (a) of Annex 1 of Merchant Shipping Notice 1888 (M+F)”.

(7) In regulation 12(5) (health surveillance) for “Annex II to the Directive” substitute “Annex 2 of Merchant Shipping Notice 1888 (M+F)”.

Amendment of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010

10.—(1) The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010(b) are amended as follows.

(2) In regulation 2 (interpretation) in paragraph (2) for “as amended from time to time” substitute “as it had effect immediately before exit day”.

(3) In regulation 6 (assessment of health risks)—

(a) in paragraph (3) omit “, and appropriate EU standards or recommendations are not available,”,

(b) in paragraph (4) omit “, where such equipment is covered by relevant European Union Directives”, and

(c) in paragraph (5)(c)(x) omit “in accordance with relevant European Union Directives”.

(4) In regulation 7(2)(h) (general principles for the prevention of risks) omit “, where such equipment is covered by relevant European Union Directives”.

Signed by the authority of the Secretary of State

Date

Name
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of these Regulations is made in exercise of the powers conferred by sections 85 and 86 of the Merchant Shipping Act 1995 except in respect of its application to Government ships, where the power is provided by section 2(2) of the European Communities Act 1972.

The remainder of these Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) and (g) of, and

(a) S.I. 1996/341, amended by S.I. 2015/21; there are other amending instruments but none is relevant.

(b) S.I. 2010/2987.

paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to secondary legislation which relates to maritime health and safety in order to ensure that the existing regulatory framework continues to operate effectively following the United Kingdom's withdrawal from the European Union. These Regulations also update references in the secondary legislation.

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A copy of the Ship Captain's Medical Guide published in 2014 by the Department for Transport may be downloaded from <https://www.gov.uk/government/publications/the-ship-captains-medical-guide>. The Guide is available for inspection free of charge but by appointment at the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 (infoline@mcga.gov.uk and 0203 817 2000).

A copy of the Approved List of biological agents published in 2004 by the Health and Safety Executive may be downloaded from <http://www.hse.gov.uk/pubns/misc208.pdf>. The document EH40 published in 2013 by the Health and Safety Executive may be downloaded from <http://www.hse.gov.uk/pUbns/priced/eh40.pdf>. Copies of these documents may be obtained by writing to Health and Safety Executive Books at PO Box 1999, Sudbury, Suffolk CO10 2WA or via <https://books.hse.gov.uk>.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. An Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.