

1998 No 2070

MERCHANT SHIPPING

Merchant Shipping (Radio Installations) Regulations 1998

Made 20th August 1998

Laid before Parliament 28th August 1998

Coming into force 28th September 1998

The Secretary of State for the Environment, Transport and the Regions, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995, in exercise of the powers conferred by sections 85(1)(a) and (b), (3), (5) to (7) and 86(1) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Part I General

1 Citation, commencement and revocation

- (1) *These Regulations may be cited as the Merchant Shipping (Radio Installations) Regulations 1998 and shall come into force on 28th September 1998.*
- (2) *The Merchant Shipping (Radio Installations) Regulations 1992 are hereby revoked.*

2 Interpretation

In these Regulations—

“cargo ship” means a ship other than a passenger ship;

“general radiotelecommunications” means operational and public correspondence traffic, other than distress, urgency and safety messages, conducted by radio;

“GMDSS” means the Global Maritime Distress and Safety System;

“GMDSS ship” means a ship to which Part II of these Regulations applies;

“interference” has the same meaning as in the Wireless Telegraphy Act 2006;

“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;

“passenger” is every 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” means a ship certified to carry more than 12 passengers;

“radio installation” means any radio installation provided on board a ship in compliance with these Regulations, including its associated antennas, interconnecting circuits and, where appropriate, sources of electrical energy;

“Radio Regulations” means the Radio Regulations annexed to, or regarded as being annexed to, the Constitution and Convention of the International Telecommunication Union which is in force at any time;

“Safety Convention” means the International Convention for the Safety of Life at Sea 1974;

3 Application

(1) *Subject to paragraph (2), these Regulations apply to—*

- (a) *United Kingdom ships (wherever they may be); and*
- (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 2020⁽¹⁾ 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 Dock 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);

“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—*

(1) S.I. 2020/xxxx.

(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 Ships and persons in distress

Nothing in these Regulations shall prohibit any ship, survival craft or person in distress from using any means at their disposal to attract attention, make known their position or obtain help.

5 Equivalents and exemptions

(1) Where these Regulations require that a particular fitting, material, appliance or apparatus, or type thereof, shall be fitted or carried in a ship, or that any particular provision shall be made, the Secretary of State may permit any other fitting, material, appliance or apparatus or type thereof to be fitted or carried, or any other provision to be made in that ship if he is satisfied by trial thereof or otherwise that such other fitting, material, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by these Regulations.

(2) For the purpose of these Regulations, the results of verifications and tests carried out by the bodies and laboratories of any EEA State offering suitable and satisfactory guarantees of technical and professional competence shall be accepted.

(3) In a situation described in paragraph (4), 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) The situations are—

(a) if the conditions in respect of that ship affecting safety are such as to render the full application of section 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 in paragraph (3), 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.

(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) 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) 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 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.

6 Performance standards

- (1) Subject to paragraph (4) below,] equipment required to be provided under these Regulations shall—
 - (b) subject to paragraph (2) below, be of a type approved by the Secretary of State;
 - (c) in the case of United Kingdom ships, in addition conform to appropriate performance standards specified in Merchant Shipping Notice (MSN) xxxx,

and those standards and specifications shall include any amendment thereto which the Secretary of State considers relevant from time to time and specifies in a Merchant Shipping Notice.

- (2) In respect of a ship registered in a State party to the Safety Convention, sub-paragraph (b) above shall not apply to equipment of a type approved by the Administration of that State.
- (3) Any approval given pursuant to this regulation shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.
- (4) Equipment required to be provided under these Regulations to which the Merchant Shipping (Marine Equipment) Regulations 2016 apply shall comply with the requirements of those Regulations.

Part II GMDSS Ship Requirements

7. Ship requirements

A ship to which these Regulations apply must comply with the requirements applicable to that ship prescribed by Merchant Shipping Notices (MSN) xxxx and xxxx.

Part IV Enforcement

49 Power to detain

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

(2) *Any ship which does not comply with the requirements of the provisions in Chapter V referred to in regulation 5 (safety of navigation requirements) 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;*
 - (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.”*

50 Penalties

(1) *If a person nominated under section [13(8)] of Merchant Shipping Notice (MSN) xxxx contravenes any provision of these Regulations imposing a duty on him, he shall be guilty of an offence punishable on summary conviction to a fine not exceeding level 2 on the standard scale; and if any person, being the owner or master of the ship, permits such a contravention, he shall be guilty of an offence punishable on*

summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

(2) If these Regulations are contravened in any other respect in relation to any ship, the owner and master of the ship shall each be guilty of an offence punishable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

51 Defence

It shall be a defence for a person charged under these Regulations to show that he took all reasonable precautions to avoid the commission of the offence.

52 Review

(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provisions contained in these Regulations; and*
- (b) publish a report setting out the conclusions of the review.*

(2) The first report must be published before [] 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 requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under Chapter IV 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 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 the Department of the Environment, Transport and the Regions

Nick Raynsford

Parliamentary Under-Secretary of State,

Department of the Environment, Transport and the Regions

20th August 1998

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace, with amendments, the Merchant Shipping (Radio Installations) Regulations 1992.

They give effect to Chapter IV of the International Convention for the Safety of Life at Sea 1974 (SOLAS), including amendments adopted by states party to that Convention at a Conference on the Global Maritime Distress and Safety Systems (GMDSS) on 11 November 1988 and at Conferences on 11 December 1992 and 29 November 1995. GMDSS is the International Maritime Organisation's world-wide network of automated emergency communications for vessels at sea.

In addition to minor drafting amendments, the changes of substance to the 1992 Regulations require that ships of Class I, II or II(A) have a distress panel on board located at the conning position (regulation 10), that means be provided for two-way on-scene radio communications for search and rescue purposes (regulation 11(4)) and that at least one person qualified for distress and safety radio communications be assigned to perform only radio communication duties during distress incidents (regulation 19(2)(a)).

Part II contains the GMDSS provisions. It requires new ships to carry new types of radio equipment including equipment for satellite communication, emergency radio beacons (EPIRBs) and other items. The carriage requirements depend on the ship's area of operations. For this purpose the world is divided up under the GMDSS into four sea areas: area A1 which is within range of VHF coastal area; area A2 which is within range of MF coastal radio; area A3 which is within coverage of geostationary satellites; and area A4 which covers the remainder of the world. The requirements for maintenance of the equipment carried permit some flexibility: maintenance may be achieved by duplication of equipment by shore-based maintenance or by an at-sea maintenance capability.

A compliance cost assessment has been produced and a copy laid in the library of each House of Parliament. Copies may be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone: 01703 329134).

Copies of SOLAS may be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR. Merchant Shipping Notices may be obtained from Eros Marketing Support Services, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesey, Surrey KT8 0BN (telephone number 0181 957 5028).