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STATUTORY INSTRUMENTS

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**1998 No. 1609**

**MERCHANT SHIPPING**

**SAFETY**

**The Merchant Shipping (Small Workboats  
and Pilot Boats) Regulations 1998**

<i>Made</i>	- - - -	<i>2nd July 1998</i>
<i>Laid before Parliament</i>		<i>13th July 1998</i>
<i>Coming into force</i>	- -	<i>3rd August 1998</i>

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<sup>(1)</sup>, in exercise of the powers conferred by—

- (i) sections 85(1)(a) and (b), (3), (5) to (7), and 86(1) of the said Act<sup>(2)</sup>; and
- (ii) section 302(1) of the said Act,

and of all other powers enabling him in that behalf, with the consent of the Treasury in so far as the Regulations are made under the said section 302(1), hereby makes the following Regulations:

**PART I**

**PRELIMINARY**

**Citation, commencement and revocation**

1.—(1) These Regulations may be cited as the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998 and shall come into force on 3rd August 1998.

(2) The Merchant Shipping (Pilot Boats) Regulations 1991<sup>(3)</sup> are hereby revoked.

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<sup>(1)</sup> 1995 c. 21.

<sup>(2)</sup> Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8.

<sup>(3)</sup> S.I. 1991/65.

## Amendment of Fees Regulations

2. In Part I of the Schedule to the Merchant Shipping (Fees) Regulations 1996<sup>(4)</sup>, in the table in paragraph 1(2), section I, for the title and number—

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“Merchant Shipping (Pilot Boats) Regulations 65”  
1991

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there shall be substituted the following title and number—

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“Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998”.

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## Interpretation

3.—(1) In these Regulations:

“Certifying Authority” means the Secretary of State or any other person authorised by him;

“Code of Practice” means the Code of Practice entitled “The Safety of Small Workboats and Pilot Boats—A Code of Practice” published by the Maritime and Coastguard Agency; and any reference to the Code includes a reference to any document amending the Code specified in a Merchant Shipping Notice;

“competent harbour authority” means a body which is a competent harbour authority for the purposes of the Pilotage Act 1987<sup>(5)</sup>;

“dedicated pilot boat” means a vessel used, or intended to be used, solely as a pilot boat;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(6)</sup>;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“load line length” means either 96% of the total length on a waterline or 85% of the least moulded depth measured from the top of the keel, or the length from the foreside of the stern to the axis of the rudder stock on that waterline, whichever is the greater; in a vessel designed with a rate of keel 1, the waterline on which this length is measured should be parallel to the design waterline;

“Maritime and Coastguard Agency” means the Maritime and Coastguard Agency, an executive agency of the Department of the Environment, Transport and the Regions;

“Merchant Shipping Notice” means a Notice described as such and issued by the Maritime and Coastguard Agency; and any reference to a particular Merchant Shipping Notice includes a reference to any such document amending or replacing that Notice;

“owner” means, in relation to a vessel, the person who owns the vessel, not being the competent harbour authority;

“pilot boat” means a vessel, of whatever size, employed or intended to be employed in pilotage services;

“small vessel” means a ship of less than 24 metres in load line length;

“small workboat” means a small vessel in commercial use other than for sport or pleasure, including a dedicated pilot boat, not being used as:

- (i) a tug or salvage ship;

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<sup>(4)</sup> S.I. 1996/3243, to which there are amendments not relevant to these Regulations.

<sup>(5)</sup> 1987 c. 21.

<sup>(6)</sup> Cmnd. 2073.

- (ii) a ship engaged in the surveying of harbours or the approaches thereto; or
- (iii) a hopper barge or dredger;

“surveyor” means a marine surveyor nominated by the Secretary of State to undertake the surveys required by these Regulations and includes any marine surveyor of the Department of the Environment, Transport and the Regions;

“vessel in commercial use” includes any vessel, including any pleasure vessel within the meaning of regulation 3 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1993(7), while it is in possession of a broker, ship repairer or other such person for the purposes of his business.

(2) Where a vessel is managed by a person other than the owner (whether on behalf of the owner or some other person, or on his own behalf), a reference in these Regulations to the owner shall be construed as including a reference to that person.

(3) Any approval or exemption given pursuant to these Regulations or the Code of Practice 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.

#### **Application**

- 4.—(1) Subject to paragraph (2) below, these Regulations shall apply to—
- (a) small workboats which are United Kingdom ships wherever they may be;
  - (b) other small workboats operating from United Kingdom ports whilst in United Kingdom waters; and
  - (c) pilot boats, not being small workboats, which are United Kingdom ships wherever they may be.
- (2) Regulation 5 shall not apply to—
- (a) dedicated pilot boats, of whatever size; or
  - (b) pilot boats which are not small workboats.

## **PART II**

### **REQUIREMENTS FOR SMALL VESSELS IN COMMERCIAL USE**

#### **Small vessels complying with the Code of Practice**

5.—(1) Subject to provisions of the relevant paragraphs of the Code of Practice, the statutory instruments listed in the Schedule to these Regulations shall not apply to any workboat to which this regulation applies which has been examined, and in respect of which a certificate has been issued, in accordance with the Code of Practice.

(2) Where a vessel has been so examined and a certificate issued, the vessel shall not proceed or attempt to proceed to sea unless—

- (a) the certificate is currently in force;
- (b) the vessel complies with the requirements of the Code of Practice (including any requirements as to operation, manning and maintenance) and is operated in accordance with any conditions as specified in the certificate; and for this purpose any provision of the Code of Practice expressed in the conditional (i.e. “should”) shall be a requirement; and

(c) the certificate is displayed in some conspicuous place on board.

(3) Following the completion of any survey of a vessel required by the Code of Practice, no material change shall be made to the vessel, its machinery or equipment without the prior approval of the Certifying Authority.

## PART III

### REQUIREMENTS FOR PILOT BOATS

#### **Compliance with the Code of Practice for Pilot Boats**

6.—(1) The statutory instruments listed in the Schedule to these Regulations shall not apply to dedicated pilot boats or to pilot boats, not being small workboats, which are United Kingdom ships.

(2) A vessel shall not be operated as a pilot boat unless—

- (a) the vessel has been examined and a Pilot Boat Certificate or a Workboat Certificate with a Pilot Boat endorsement has been issued in accordance with the Code of Practice;
- (b) the certificate is currently in force;
- (c) the vessel complies with the requirements of the Code of Practice (including any requirements as to operation, manning and maintenance) and is operated in accordance with any conditions as specified in the certificate; and for this purpose any provision of the Code of Practice expressed in the conditional (i.e. “should”) shall be a requirement; and
- (d) the certificate is displayed in some conspicuous place on board.

(3) Following the completion of any survey of a boat required by the Code of Practice, no material change shall be made to the boat, its machinery or equipment without the prior approval of the Certifying Authority.

#### **Exemptions under Part III**

7. The Secretary of State may exempt any pilot boat from any or all of the provisions of this Part on such terms, if any, as he may specify if he is satisfied that compliance with such provision is either impracticable or unreasonable in the case of that pilot boat and may, subject to giving reasonable notice, alter or cancel any such exemption.

## PART IV

### COMMON PROVISIONS

#### **Equivalent standards**

8.—(1) Where these Regulations or the Code of Practice require that a particular piece of equipment or machinery shall be provided or carried in a vessel to which these Regulations apply or that any particular provision shall be made, the Secretary of State may permit any other piece of equipment or machinery to be provided or carried, or any other provision to be made, if he is satisfied by trials thereof or otherwise that such other piece of equipment or machinery or provision is at least as effective as that required by these Regulations or the Code of Practice.

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

## Penalties

9.—(1) Contravention of any provision of regulation 5 above shall be an offence by the owner and the master of the vessel punishable on summary conviction by a fine not exceeding the statutory maximum, or on conviction on indictment by imprisonment for a term not exceeding two years or a fine, or both.

(2) Subject to paragraph (3) below, contravention of any provision of regulation 6 above in respect of a pilot boat shall be an offence by the competent harbour authority, the owner and the master of the boat punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

(3) Any contravention of regulation 6(2)(d) above in respect of a pilot boat shall be an offence by the competent harbour authority, the owner and the master of the boat punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(4) In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that he took all reasonable steps to avoid commission of the offence.

## Power to detain

10. In any case where a vessel does not comply with the requirements of these Regulations, that vessel shall be liable to be detained and section 284(1)–(6) and (8) of the Merchant Shipping Act 1995(8) (which relates to the detention of a ship) shall have effect in relation to the vessel, as if for the words “this Act” wherever they appear, there were substituted the words “the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998”.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

*Glenda Jackson*  
Parliamentary Under Secretary of State  
Department of the Environment, Transport and  
the Regions

29th June 1998

We consent to the making of these Regulations

*Jon Owen Jones*  
*Graham Allen*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

2nd July 1998

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(8) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 1.

*Status: This is the original version (as it was originally made).***SCHEDULE**

Regulation 5(1) and 6(1)

**STATUTORY INSTRUMENTS NOT APPLIED**

The statutory instruments listed below are those referred to in Regulation 5(1) and 6(1) of these Regulations.

<i>Statutory Instruments</i>	<i>S.I.No.</i>	<i>Amended by—S.I. No.</i>
The Anchors and Chain Cable Rules 1970	1970/1453	
The Merchant Shipping (Life-Saving Appliances) Regulations 1980	1980/538	1981/577; 1981/1472; 1984/97; 1986/1072; 1991/1300; 1992/2359
The Merchant Shipping (Fire Appliances) Regulations 1980	1980/544	1981/1574; 1981/1472; 1981/1741; 1985/1194; 1986/1070
The Merchant Shipping (Fire Protection: Small Ships) Regulations 1998	1998/1011	
The Merchant Shipping (Fire Protection: Large Ships) Regulations 1998	1998/1012	
The Merchant Shipping (Life-Saving Appliances) Regulations 1986	1986/1066	1991/1300
The Merchant Shipping (Radio Installations) Regulations 1992	1992/3	1993/1072
The Merchant Shipping (Crew Accommodation) Regulations 1997	1997/1508	
The Merchant Shipping (Cargo Ship Construction) Regulations 1997	1997/1509	
The Merchant Shipping (Training and Certification) Regulations 1997	1997/348	1997/1911
The Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997	1997/1320	1997/1911
The Merchant Shipping (Survey and Certification) Regulations 1995	1995/1210	1996/2418
The Merchant Shipping (Load Lines) Rules 1968	1968/1053	1970/1003; 1979/1267; 1990/2128; 1993/1994

<i>Statutory Instruments</i>	<i>S.I.No.</i>	<i>Amended by—S.I. No.</i>
The Merchant Shipping (Load Lines) (Length of Ship) Regulations 1968	1968/1072	
The Merchant Shipping (Load Lines) (Deck Cargo) Regulations 1968	1968/1089	
The Merchant Shipping (Load Lines) (Particulars of Depth of Loading) Regulations 1972	1972/1841	

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke the Merchant Shipping (Pilot Boats) Regulations 1991 and re-enact them with amendments. In addition the Regulations make provision in respect of small workboats generally.

In relation to pilot boats, the Regulations provide that they shall comply with the Code of Practice “The Safety of Small Workboats and Pilot Boats—A Code of Practice”. The substantive provisions of this Code of Practice are largely the same as those under the 1991 Regulations. The principal changes are in relation to certification, in particular in relation to the certification of workboats which are used as pilot boats on an occasional basis.

In relation to small workboats, the Regulations provide that such vessels may, as an alternative to complying with the instruments specified in the Schedule to these Regulations, comply with the requirements of the above Code of Practice (regulation 5(1)).

A compliance cost assessment has been prepared and copies can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone: 01703 329152). A copy has been placed in the library of each House of Parliament.

The Code of Practice referred to in these Regulations may be obtained from Her Majesty’s Stationery Office. Merchant Shipping Notices may be obtained from Eros Marketing Support Services, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesley, Surrey KT8 0BN.

These Regulations and the Code of Practice have been notified to the European Commission pursuant to Directive [83/189/EEC](#) of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ 1983 L 109, p.8) as amended by Council Directive [88/182/EEC](#) of 22 March 1988 (OJ 1988 L 81, p.75) and European Parliament and Council Directive [94/10/EEC](#) of 23 March 1994 (OJ 1994 L 100, p.30).