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## EXPLANATORY NOTE

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

These Regulations implement Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (OJ L257, 28.8.2014, p. 146) (“the Directive”).

*Part 1 (regulations 1 to 4)* contains introductory provisions and a power to designate notified and nominated bodies. *Regulation 2* contains interpretation provisions. *Regulation 3* applies the Regulations to all United Kingdom ships wherever they may be. *Regulation 4* gives the Secretary of State a power to designate notified and nominated bodies to carry out conformity assessment procedures. These procedures assess and confirm that equipment complies with the relevant design, construction and performance standards, ensuring uniform levels of safety and environmental protection are achieved.

*Part 2 (regulations 5 to 10)* provides for requirements to apply to equipment placed on board a ship and for exemptions from those requirements.

*Regulation 5* requires equipment placed on board a ship to meet the design, construction and performance standards specified in Annexes 1 to 3 of Merchant Shipping Notice MSN 1874 and to be approved in accordance with the conformity assessment procedures in Parts 3 and 4 of the Regulations. *Regulation 6* sets out the manner in which regulations 7 to 9 apply.

*Regulations 7 to 9* enable the Secretary of State to allow equipment that does not meet applicable international standards to be placed on board a ship in certain specified circumstances, subject to any restrictions or conditions imposed. *Regulation 10* requires the Secretary of State to inspect equipment on a ship that transfers to the UK Register to ensure the equipment complies with its safety certificates and with applicable international standards or is equivalent to equipment that complies with those standards.

*Part 3 (regulations 11 to 17)* makes provision for EU conformity procedures and related matters.

*Regulation 11* provides for applications to notified bodies for EU conformity approval of equipment following the conformity procedures set out in Annex II of the Directive. *Regulation 12* sets out the approval procedure for notified bodies and prescribes (also by reference to Annex II of the Directive) the requirements that must be fulfilled for granting EU conformity approval.

*Regulation 13* provides for the amendment of conformity approvals. *Regulations 14 and 15* require manufacturers of equipment to issue declarations of conformity and affix conformity marks as prescribed. *Regulation 16* requires a manufacturer located outside the EU to appoint an authorised representative situated in the EU.

*Part 4 (regulations 17 and 18)* makes provision for conformity approval of equipment on UK ships to which EU conformity approval procedures do not apply and for related matters.

*Regulation 17* requires a manufacturer to apply to a nominated body for conformity approval of equipment to be placed on board a domestic passenger ship or fishing vessel in accordance with the procedures set out in Part II of Merchant Shipping Notice 1874. *Regulation 18* sets out the approval procedures for a nominated body and the requirements that must be fulfilled for conformity approval to be granted by reference to Merchant Shipping Notice 1874.

*Part 5 (regulations 19 to 22)* sets out obligations on economic operators.

*Regulation 19* sets out the manner in which regulations 20 to 22 apply. *Regulation 20* imposes obligations on manufacturers during and after the EU conformity approval process and applies these obligations to distributors and importers in specified circumstances. *Regulation 21* imposes an obligation on importers which place equipment on the market. *Regulation 22* imposes obligations on economic operators generally to comply with certain requests from market surveillance authorities and competent national authorities.

*Part 6 (regulations 23 to 28)* makes provision for enforcement.

**Changes to legislation:** There are currently no known outstanding effects for the The Merchant Shipping (Marine Equipment) Regulations 2016. (See end of Document for details)

*Regulation 23* enables notified bodies to suspend or withdraw their EU conformity approvals in certain circumstances. *Regulations 24* allows the Secretary of State to carry out sample checks of equipment for market surveillance purposes. *Regulation 25* enables the Secretary of State to take action where equipment complies with applicable international standards, but is nonetheless considered a threat to the safety of persons on board a ship or to the marine environment.

*Regulation 26* creates offences and provides penalties for breach of these Regulations, and provides a “reasonable steps” defence for those offences. *Regulation 27* provides for the detention of ships in certain circumstances. *Regulation 28* enables the enforcement powers in sections 258 to 266 of the Merchant Shipping Act 1995 to be used in relation to Government ships.

*Part 7 (regulations 29 to 32)* contains miscellaneous provisions.

*Regulation 29* requires the Secretary of State to carry out market surveillance in accordance with the EU market surveillance framework. *Regulation 30* requires the Secretary of State to review the operation and effect of the Regulations and publish a report within 5 years after they come into force and every five years after that. Following a review, it will fall to the Secretary of State to consider whether the Regulations should continue in force with or without amendment. A further instrument would be needed to revoke the Regulations. *Regulation 31* introduces the Schedule which makes consequential amendments to other legislation. *Regulation 32* revokes the Merchant Shipping (Delegation of Type Approval) Regulations 1996, the Merchant Shipping (Marine Equipment) Regulations 1999 and the Merchant Shipping (Marine Equipment) (Amendment) Regulations 2009; and makes a savings provision in respect of the revoked Regulations for equipment placed on board a ship before these Regulations come into force.

An impact assessment of the effect of these Regulations on the cost to business is published with the Explanatory Memorandum and Transposition Note alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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A copy of the Directive is available on the website, <http://eur-lex.europa.eu>, and copies of the international instruments can be obtained from the International Maritime Organisation (IMO) at [www.imo.org/Publications](http://www.imo.org/Publications), by e-mail from [sales@imo.org](mailto:sales@imo.org) or by post from the IMO, 4 Albert Embankment, London, SE1 7SR, tel +44 (0)20 7735 7611, fax +44 (0)20 7587 3241 as a priced publication.

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