

2003 No. 2950

**MERCHANT SHIPPING
SAFETY**

The Merchant Shipping (Fire Protection) Regulations 2003

<i>Made</i> - - - - -	<i>14th November 2003</i>
<i>Laid before Parliament</i>	<i>19th November 2003</i>
<i>Coming into force</i> - -	<i>11th December 2003</i>

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

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Fire Protection) Regulations 2003 and shall come into force on 11th December 2003.

Interpretation

2.—(1) In these Regulations—

“length” in relation to a registered ship means registered length, and in relation to an unregistered ship means the length from the fore part of the stem to the aft side of the head of the stern post or, if no stern post is fitted to take the rudder, to the fore side of the rudder stock at the point where the rudder passes out of the hull;

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

“Merchant Shipping Notice” means a document described as such and issued by the Maritime and Coastguard Agency, and includes a reference to any such document amending or replacing that document which is considered by the Secretary of State to be relevant from time to time;

“the MCA’s SOLAS 2002 Chapter II-2 Publication” means the document “Construction—Fire Protection, Fire Detection and Fire Extinction implementing SOLAS Chapter II-2, 2002” published by the Maritime and Coastguard Agency in November 2003;

“passenger ship” means a ship carrying more than 12 passengers, and for the purposes of this definition a 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,

(a) 1995 c. 21; sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8.

- (b) a child under one year of age, and
- (c) persons who are on board the ship by reason of force majeure or in consequence of the obligation laid upon the master to carry shipwrecked or other persons;

“pleasure vessel” means—

- (a) any vessel which is—
 - (i) wholly owned by an individual or individuals and used only for the sport or pleasure of the owner or the immediate family or friends of the owner, or
 - (ii) owned by a body corporate and used only for the sport or pleasure of employees or officers of the body corporate, or their immediate family or friends,
 and is on a voyage which is one for which the owner is not paid for or in connection with operating a 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
- (b) any vessel which is 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,

and no payments other than those mentioned 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 husband or wife of the individual, and a brother, sister, ancestor or lineal descendent of that individual or that individual’s husband or wife;

“the SOLAS Convention” means the International Convention for the Safety of Life at Sea 1974(a) as amended in accordance with its Protocol of 1988(b) and the resolution of the Maritime Safety Committee of the International Maritime Organisation published by the International Maritime Organisation as Resolution MSC.99(73) of 5th December 2000;

“voyage” includes an excursion.

(2) In these Regulations a reference to a ship constructed on or after a specified date is a reference to a ship the keel of which is laid or which is at a similar stage of construction on or after that date, and “similar stage of construction” means the stage at which:

- (a) construction identifiable with a specific ship begins, and
- (b) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

Application

3.—(1) Subject to paragraph (2), these Regulations apply:

- (a) to United Kingdom ships constructed on or after 1st July 2002, wherever they may be, and
- (b) while they are within United Kingdom waters, to non-United Kingdom ships constructed on or after 1st July 2002.

(2) These Regulations do not apply to:

- (a) vessels to which the Merchant Shipping (Fire Protection: Small Ships) Regulations 1998(c) apply;
- (b) vessels to which the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000(d) apply;
- (c) vessels which have been examined, and in respect of which appropriate certificates have been issued, in accordance with the Code of Practice for Safety of Large Commercial Sailing and Motor Vessels referred to in regulation 4 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998(e);
- (d) fishing vessels,

(a) Cmnd 7874.

(b) Cm 4420.

(c) S.I. 1998/1011, amended by S.I. 1999/992 and S.I. 2000/2687.

(d) S.I. 2000/2687.

(e) S.I. 1998/2771, amended by S.I. 2000/482.

- (e) high-speed craft to which the Merchant Shipping (High-Speed Craft) Regulations 1996(a) apply,
- (f) non-United Kingdom ships which are:
 - (i) warships, troopships, or other ships used only on government non-commercial service by the Government of a State which has consented to be bound by the SOLAS Convention,
 - (ii) ships not propelled by mechanical means,
- (g) sailing ships which proceed to sea and pleasure vessels (other than passenger ships) of 13.7 metres in length or over.

Amendment of Regulations

4. In the Merchant Shipping (Fire Protection: Large Ships) Regulations 1998(b), at the end of regulation 1(7)(c) there shall be inserted the following sub-paragraph:

“(iv) ships constructed on or after 1st July 2002.”.

Fire Protection requirements

5.—(1) Subject to paragraph (3), a ship to which these Regulations apply shall comply with the fire protection requirements specified in Parts B, C, D, E and G of the MCA’s SOLAS 2002 Chapter II-2 Publication in relation to a ship of its description.

(2) The requirements specified in Parts B, C, D, E and G of the MCA’s SOLAS 2002 Chapter II-2 Publication are:

- (a) the requirements of Chapter II-2 of the SOLAS Convention,
 - (b) where a ship to which these Regulations apply is not a ship to which Chapter II-2 of the SOLAS Convention applies, requirements corresponding to the requirements of that Chapter, and
 - (c) such alternative or additional requirements relating to Chapter II-2 of the SOLAS Convention as are specified as requirements in that publication.
- (3) A ship shall alternatively or additionally comply with requirements which shall:
- (a) relate to the amendment of Chapter II-2 of the SOLAS Convention,
 - (b) be specified in a Merchant Shipping Notice, amending or replacing the MCA’s SOLAS 2002 Chapter II-2 Publication which is considered by the Secretary of State to be relevant from time to time,
 - (c) be specified in that Merchant Shipping Notice as alternative or additional requirements which apply in relation to a ship of its description, and
 - (d) relate to all or any of the purposes set out in section 85(1) of the Act.

Exemptions

6.—(1) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for individual cases or classes of cases on such terms (if any) as he may specify, if he is satisfied that—

- (a) compliance with such provision is either impracticable or unreasonable in that case or cases, and
- (b) the exemption is subject to such conditions and limitations as will provide a level of safety which is at least equivalent to that provided by the provision or provisions from which exemption is being granted.

(2) The Secretary of State may, on giving reasonable notice, alter or cancel any exemption granted under paragraph (1).

(3) An exemption granted under paragraph (1) and an alteration or cancellation under paragraph (2) shall be given in writing and shall specify the date on which it takes effect and the terms (if any) on which it is given.

(a) S.I. 1996/3188.

(b) S.I. 1998/1012, amended by S.I. 1999/992, S.I. 2000/2687 and S.I. 2001/1638.

Approvals

7.—(1) The Secretary of State, or a person authorised by him, may as respects a United Kingdom ship grant an approval for any thing in Chapter II-2 of the SOLAS Convention requiring:

- (a) the approval of the Government of the State whose flag the ship is entitled to fly,
- (b) to be done to the satisfaction of such a Government, or
- (c) to be acceptable to such a Government.

(2) Paragraph (1) shall also apply as respects an approval for any thing corresponding to a requirement in Chapter II-2 of the SOLAS Convention which has been imposed in accordance with regulation 5(2)(b).

(3) The Secretary of State, or a person authorised by him, as appropriate, may, on giving reasonable notice, cancel or alter the terms of any approval given under paragraph (1) above.

(4) An approval given under paragraph (1) and a cancellation or alteration under paragraph (2) shall be given in writing and shall specify the date on which it takes effect and the condition (if any) on which it is given.

Offences and penalties

8.—(1) Any contravention of these Regulations in respect of a ship, other than a matter to which paragraph (3) applies, shall be an offence by both the owner and the master of that ship punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years or a fine, or both.

(2) In paragraph (1) “owner” includes any person or organisation, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner.

(3) Any contravention of these Regulations which is a matter contained in Part G, regulation 19 of the MCA’s SOLAS 2002 Chapter II-2 Publication, shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years or a fine, or both.

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

Detention

9. In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and section 284(1) to (6) and (8) of the Merchant Shipping Act 1995(a) (which relates to the detention of a ship) shall have effect in relation to that ship, as if for the words “this Act” wherever they appear, there were substituted the words “the Merchant Shipping (Fire Protection) Regulations 2003”.

Signed by authority of the Secretary of State for Transport

14th November 2003

David Jamieson
Parliamentary Under-Secretary of State
Department for Transport

(a) Section 284 was amended by the Merchant and Maritime Security Act 1997 (c. 28), Schedule 1, paragraph 5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement requirements of Chapter II-2 of the International Convention for the Safety of Life at Sea 1974 (“the SOLAS Convention”) as amended by its Protocol of 1988 and by the Resolution MSC.99(73) of the Maritime Safety Committee of the International Maritime Organisation.

The scope of application of the Regulations is set out in regulation 3: they apply to certain ships constructed on or after 1st July 2002. The Merchant Shipping (Fire Protection: Large Ships) Regulations 1998 (S.I. 1998/1012) are disapplied to such ships (*regulations 3 and 4*).

The substantive requirements of the Regulations are those in Chapter II-2 of SOLAS Convention, as set out in the MCA Publication “Construction—Fire Protection, Fire Detection and Fire Extinction implementing SOLAS Chapter II-2, 2002” (*regulation 5*).

Provision is made for exemptions to be granted by the Secretary of State where he is satisfied that compliance with those requirements would be impracticable or unreasonable and an equivalent level of safety will be provided (*regulation 6*), and for approvals as provided for in the SOLAS Convention (*regulation 7*).

Provision is made for offences and penalties for non-compliance (*regulation 8*) and for detention (*regulation 9*).

A Regulatory Impact Assessment has been prepared and copies can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG. A copy has been placed in the Library of each House of Parliament.

The MCA Publication “Construction—Fire Protection, Fire Detection and Fire Extinction implementing SOLAS Chapter II-2, 2002” can be obtained from The Stationery Office, and is also available on the MCA website <http://www.mcga.gov.uk>. Merchant Shipping Notices can be obtained from Mail Marketing (Scotland), Unit 6, Blooms Grove Industrial Estate, Norton Street, Nottingham NG7 3JG.

The SOLAS Convention, its Protocols and IMO resolutions can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.

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