

2012 No. 2636

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Passenger Ships on Domestic Voyages)(Amendment) Regulations 2012

<i>Made</i> - - - -	<i>18th October 2012</i>
<i>Laid before Parliament</i>	<i>23rd October 2012</i>
<i>Coming into force</i> - -	<i>16th November 2012</i>

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

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Passenger Ships on Domestic Voyages)(Amendment) Regulations 2012 and come into force on 16th November 2012.

Amendment of the Merchant Shipping (Survey and Certification) Regulations 1995

2.—(1) The Merchant Shipping (Survey and Certification) Regulations 1995(b) are amended as follows.

(2) In regulation 1 (citation, commencement, interpretation, modification, revocation and supplemental) —

(a) for the definition of “the Directive” substitute —

““the Directive” means Directive 2009/45/EC of 6th May 2009 on safety rules and standards for passenger ships (c);”; and

(b) after paragraph (3) insert—

“(3A) references in the Directive to Conventions or Codes in their up to date versions which:

(a) relate to all or any of the purposes set out in section 85(1) of the Merchant Shipping Act 1995;

(b) are considered by the Secretary of State to be relevant from time to time; and

(c) are specified in a Merchant Shipping Notice;

have effect in so far as they are so specified.”.

(a) 1995 c.21. Subsection 85(1) was amended by section 8(2) of the Merchant Shipping and Maritime Security Act 1997 c.28.

(b) S.I.1995/1210, amended by S.I. 2000/2687, there are other amending instruments but none is relevant.

(c) O.J. L 163, 25.6.2009, p.1, amended by Commission Directive 2010/36/EU of 1st June 2010, O.J.L 162, 29.6.2010, p.1.

(3) After regulation 26 insert—

“Review

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

- (a) carry out a review of regulations 1 to 26,
- (b) set out the conclusions of the review in the report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the 1974 SOLAS Convention is implemented in other states.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and if so the extent to which they could be achieved by a system that imposes less regulation.

(4) The first report under this regulation must be published before the end 16th November 2017.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Amendment to the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000

3.—(1) The Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000(a) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) for the definition of “the Directive” substitute—

““the Directive” means Directive 2009/45/EC of 6th May 2009 on safety rules and standards for passenger ships(b);”; and

(b) after paragraph (2) insert—

“(2A) references in the Directive to Conventions or Codes in their up to date versions which:

- (a) relate to all or any of the purposes set out in section 85(1) of the Merchant Shipping Act 1995
- (b) considered by the Secretary of State to be relevant from time to time
- (c) specified in a Merchant Shipping Notice;

have effect in so far as they are so specified.”.

(3) In regulation 4 (application)—

- (a) in paragraph 2(g) delete “subject to paragraph (3) below,”; and
- (b) delete paragraph (3).

(4) In regulation 6 (safety requirements)—

- (a) in paragraph (3) for “Article 7” substitute “Article 9”; and
- (b) in paragraph (5) for “Article 7(1)” substitute “Article 9(1)”.

(a) S.I.2000/2687, amended by S.I. 2004/302, S.I.2004/1107 and 2010/680; there are other amending instruments but none is relevant.

(b) O.J. L 163, 25.6.2009, p.1, amended by Commission Directive 2010/36/EU of 1st June 2010, O.J.L 162, 29.6.2010, p.1.

(5) In regulation 7 (alternative construction, equipment and machinery) for “Article 7” substitute “Article 9”.

(6) After Regulation 10 insert—

“Review

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

- (a) carry out a review of regulations 2 to 10,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member states.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and if so the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before 16th November 2017.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Amendment of the Merchant Shipping (High Speed Craft) Regulations 2004

4.—(1) The Merchant Shipping (High Speed Craft) Regulations 2004(a) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) for the definition of “High Speed Craft Code 1994” substitute—

““High Speed Craft Code 1994” means the International Code of Safety for High Speed Craft adopted by the Maritime Safety Committee of the International Maritime Organisation by resolution MSC.36(63) of 20th May 1994 and amended by resolutions MSC.119(74), MSC.174(79), MSC.221(82) and MSC.259(84) and includes any document amending it 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) for the definition of “High Speed Craft Code 2000” substitute—

““High Speed Craft Code 2000” means the International Code of Safety for High Speed Craft 2000 adopted by the Maritime Safety Committee of the International Maritime Organisation by resolution MSC.97(73) of 5th December 2000 and amended by resolutions MSC.175(79), MSC.260(84), MSC.27(85) and MSC.27(85) and includes any document amending it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice; and

(a) in relation to vessels built on or after 1st July 2002 but before 1st July 2008 it includes the amendments contained in paragraphs 1.2.2, 1.8.1, 1.9.1, 2.7.2, 13.8.2, and 14.15.10 of MSC.222(82); and

(b) in relation to vessels built on or after 1st July 2008, it includes all the amendments contained in MSC.222(82).”.

(3) In regulation 3 (application)—

(a) after paragraph (2)(g) insert—

(a) S.I.2004/302, amended by S.I. 2004/2883.

“(h) a passenger ship engaged on domestic voyages in sea areas of class B, C or D when the displacement of that vessel corresponding to the design waterline is less than 500m³ and the maximum speed of that vessel, as defined in paragraph 1.4.30 of the High Speed Craft Code 1994 or, where applicable, paragraph 1.4.37 of the High Speed Craft Code 2000, is less than 20 knots”;

(b) delete paragraph (3).

(4) In regulation 7A (safety requirements for persons with reduced mobility) for “Council Directive 98/18/EC” wherever it appears substitute “Directive 2009/45/EC as amended”.

(5) In regulation 10(3) (offences and penalties) after the word “Regulations” the first time it occurs, insert “other than regulation 9(1) and (2)”;and

(6) After regulation 12 insert—

“Review

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

- (a) carry out a review of regulations 2 to 11,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive (which is implemented by means of regulations 3 to 11) is implemented in other member states.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and if so the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under his regulation must be published before 16th November 2017.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Signed by authority of the Secretary of State for Transport

18th October 2012

Stephen Hammond
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Commission Directive 2010/36/EU (O.J. L 162, 29.6.2010, p.1.) which amended Directive 2009/45/EU (O.J. L 163, 25.6.2009, p.1.) (“the 2009 Directive”) on safety rules and standards for passenger ships. The 2009 Directive consolidated a number of earlier directives which had been implemented through the instruments that are being amended by these Regulations.

Regulation 2 amends the Merchant Shipping (Survey and Certification) Regulations 1995 so that they refer to the 2009 Directive. Regulation 2(3) inserts a review provision into the Regulations.

Regulation 3 amends the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 so that they refer to the 2009 Directive. The amendment made by regulation 3(3), together with the amendment being made by regulation 4(3) to the Merchant Shipping (High Speed Craft) Regulations 2004 ensures that certain smaller ships that would otherwise be regarded as high speed craft operating in less exposed waters will be regulated by the 2000 Regulations rather than the 2004 Regulations. Regulation 3(6) inserts a review provision into the 2000 Regulations.

Regulation 4 amends the Merchant Shipping (High Speed Craft) Regulations 2004. Regulation 4(3) removes a defence to certain offences created under regulation 9 of those Regulations. Regulation 4(6) inserts a review provision into the 2004 Regulations.

The review provisions, inserted by regulations 2(3), 3(6) and 4(6), require the Secretary of State to review the operation and effect of the relevant regulations and to publish a report within 5 years after the review provision comes into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether those regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke those regulations or to amend them.

An impact assessment of the effect these Regulations will have on the costs of the business and the voluntary sector together with a transposition note is available alongside these Regulations at www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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