

**EXPLANATORY MEMORANDUM TO**  
**THE MERCHANT SHIPPING (LIFE-SAVING APPLIANCES AND**  
**ARRANGEMENTS) REGULATIONS 2020**

**2020 No. 501**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Transport (“the Department”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Secondary Legislation Scrutiny Committee.

**2. Purpose of the instrument**

- 2.1 These Regulations implement all amendments to Chapter III of the International Convention for the Safety of Life at Sea, 1974 (“SOLAS”), including the International Life-Saving Appliance Code (“the LSA Code”), as at the date of the instrument. The instrument contains requirements for the carriage of life-saving appliances and arrangements for new and existing United Kingdom ships (excluding passenger ships which sail mainly in internal waters or which undertake only limited voyages at sea), engaged on international and non-international voyages, and also apply to non-United Kingdom ships in United Kingdom waters. The instrument revokes and replaces the Merchant Shipping (Life-Saving Appliances For Ships Other Than Ships Of Classes III To VI(A)) Regulations 1999 (S.I. 1999/2721) (“the 1999 Regulations”), and makes consequential amendments to other secondary legislation.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Secondary Legislation Scrutiny Committee*

- 3.1 The Secondary Legislation Scrutiny Committee included in its 21st Report of Session 2017-19 an exchange of correspondence between the Committee and the Department in relation to the implementation backlog of international maritime conventions. These Regulations are one of the statutory instruments which implement outstanding international obligations to which the Department referred in that correspondence.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.
- 4.2 The territorial application of this instrument is all United Kingdom ships other than ships of Classes III to VI(A) (which are passenger ships that sail mainly in internal waters or which undertake only limited voyages at sea), whether within United

Kingdom waters or anywhere else in the world. It also applies to non-United Kingdom ships while in United Kingdom waters.

## **5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **6. Legislative Context**

- 6.1 These Regulations implement outstanding amendments to Chapter III and the LSA Code. They also make provision for life-saving appliances and arrangements in respect of ships to which Chapter III does not apply.
- 6.2 The Regulations revoke and replace the Merchant Shipping (Life-Saving Appliances For Ships Other Than Ships Of Classes III To VI(A)) Regulations 1999 (S.I. 1999/2721) and those regulations that amend them. The Regulations also amend the Merchant Shipping (Musters, Training and Decision Support Systems) Regulations 1999 (S.I. 1999/2772) (“the Musters Regulations”) and regulation 6 of the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (S.I. 1988/1638) (“the 1988 Regulations”) in order to remove from their scope ships to which the provisions of Chapter III apply. All ships to which Chapter III applies are now regulated in respect of life-saving appliances and arrangements by these Regulations.
- 6.3 The Regulations contain provision relating to the carriage of life-saving appliances and arrangements for existing ships (for these purposes, ships constructed before 1st July 1998) engaged on both international and non-international voyages, and requirements for the same purpose for new ships (ships constructed on or after 1st July 1998) engaged on international voyages. Domestic passenger ships which are engaged either on voyages in internal waters or on limited voyages at sea are not subject to the Regulations; these ships continue to be regulated by the Merchant Shipping (Life-Saving Appliances for Passenger Ships of Classes III to VI(A)) Regulations 1999 (S.I. 1999/2723). The Regulations also contain provision for new ships engaged on international voyages but to which Chapter III does not apply (principally because they are too small). The requirements for all these ships are set out in Merchant Shipping Notice 1676 (Amendment 1) (“MSN 1676”), which is made mandatory by these Regulations. Any failure to comply with the requirements in MSN 1676 is a criminal offence by the owner and master. Additionally, the Musters Regulations and regulation 6 of the 1988 Regulations continue to apply to ships to which Chapter III does not apply.
- 6.4 Provision relating to the carriage of life-saving appliances and arrangements for new ships engaged on international voyages is contained in Part B of Chapter III, which incorporates the requirements of the LSA Code. Part B of Chapter III is incorporated into the Regulations by cross reference (regulation 15) and regulation 5 operates to make the application of Part B to ships ambulatory so that all future amendments to Part B of Chapter III and the LSA Code will be automatically incorporated into these Regulations.
- 6.5 Ships employed as fish processing or canning factory ships, and those which carry employees in such industries are no longer constructed and the only remaining active ships in this class were constructed before 1st July 1986. As such, the requirements for ships constructed before this date apply to these ships, but later requirements do not.

- 6.6 The requirements in Part B of Chapter III do not apply to sailing ships or pleasure vessels of 13.7 metres or over; the requirements for these classes of ship are contained in MSN 1676, applied by regulations 10, 13, 16 and 19.
- 6.7 As Chapter III contains a number of specific requirements for existing ships, these are either implemented in the instrument, or are applied by the direct reference in regulation 10(2) to the requirements of Part B in Chapter III.
- 6.8 Guidance on the approvals required by Chapter III applicable to new ships engaged on international voyages is contained in MSN 1676. The Merchant Shipping Notices referred to in the Regulations are available on [www.gov.uk/topic/ships-cargoes/m-notices](http://www.gov.uk/topic/ships-cargoes/m-notices) and in hard copy from the Maritime & Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email [infoline@mcga.gov.uk](mailto:infoline@mcga.gov.uk)).
- 6.9 Although the ambulatory reference provision in regulation 5 provides for future amendments to these technical provisions to be incorporated automatically into domestic law, proposed changes will nevertheless continue to be scrutinised in an international arena (in the International Maritime Organization), and the impact assessed well before any amendment is due to come into force, which will inform decision making. United Kingdom industry and workers' representatives will also be involved at the stage at which the United Kingdom negotiating strategy is being formulated and will be able to influence it. The United Kingdom may also object to an amendment and ensure that it does not come into force in relation to the United Kingdom and is therefore not incorporated into domestic law by way of ambulatory reference. An amendment will be publicised in advance of its in-force date by means of a Parliamentary Statement to both Houses of Parliament and by way of a Marine Guidance Note, which will be available from the MCA from Spring Place, 105 Commercial Road, Southampton SO15 1EG and on <https://www.gov.uk>.
- 6.10 The Regulations contain provision in regulation 20 for each contravention of the Regulations, Part B of Chapter III or MSN 1676 to be an offence on the owner and master. The penalty for such contravention is a fine on summary conviction or on indictment, or a custodial sentence of up to two years. This mirrors the position in the 1999 Regulations. A ship may also be detained under regulation 21. These sanctions are applicable in respect of both United Kingdom ships and foreign ships visiting United Kingdom ports.

## **7. Policy background**

### *What is being done and why?*

- 7.1 This legislation is being made to ensure that the UK meets international obligations in respect of Chapter III of SOLAS, thereby ensuring that the most up-to-date equipment and arrangements for saving life at sea are used on board ships. Chapter III prescribes requirements in respect of new ships engaged on international voyages, as well as particular requirements for existing ships, including in relation to lifeboats, rescue boats and life jackets according to the type of ship. The LSA Code prescribes specific technical requirements for life-saving appliances and is referenced in Chapter III.
- 7.2 The previous implementation of Chapter III was in the 1999 Regulations, the Musters Regulations and, in relation to one specific aspect (enclosed spaces drills), in the 1988 Regulations. In order to implement amendments to Chapter III, the 1999 Regulations were last amended in 2004 and the Musters Regulations were amended in 2005. The

United Kingdom is obliged to implement all the amendments that have come into force since that time and this instrument ensures that requirement is met. The most recent amendments, which include requirements relating to operational readiness, maintenance and inspections, drills, muster lists and emergency instructions, as well as launching and embarkation appliances, came into force internationally on 1st January 2020. The inclusion of an ambulatory reference provision in the instrument means that future technical amendments to Chapter III will be automatically incorporated and will avoid the need for extensive further amendments to the instrument.

- 7.3 The carriage requirements for new ships and existing ships on non-international voyages, and for new ships that are on international voyages but are ships to which Chapter III does not apply, are contained in MSN 1676. There are no updates to these requirements at this stage and a separate consultation exercise will be undertaken in the Autumn/Winter of 2020 to determine what changes may be required.
- 7.4 These Regulations apply to pleasure vessels of 13.7 metres or more in length, but such vessels are not subject to the requirements of Chapter III of SOLAS. The carriage requirements for pleasure vessels, and also for sailing ships, are contained in MSN 1676. Guidance on the regulation of pleasure vessels, including information on exemptions from the Regulations, can be found in Marine Guidance Note (MGN) 599 (M), which is available from the Maritime & Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG and on <https://www.gov.uk/topic/ships-cargoes/m-notices>.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 As the 1999 Regulations are replaced by this instrument, there is no need for consolidation.

## **10. Consultation outcome**

- 10.1 Consultation took place over an eight-week period, from 28th October 2019 to 23rd December 2019.
- 10.2 The consultation documents, including the draft Regulations, draft MSN 1676 and a de minimis assessment were sent by email to life-saving appliance manufacturers and distributors, ship owners and operators, Recognised Organisations, Certifying Authorities, surveyors, marine industry representatives including British Marine and the Royal Yachting Association and other regulatory bodies within the Red Ensign Group, including the Governments of Guernsey, Jersey, Isle of Man, Gibraltar and the Cayman Islands, and the Devolved Administrations of Scotland, Wales and Northern Ireland. It was also published on the gov.uk website for wider public consultation (<https://www.gov.uk/government/consultations/consultation-on-recasting-the-merchant-shipping-life-saving-appliances-regulations>).
- 10.3 Four responses were received to the consultation. Two of the responses were very supportive of the move to utilise an ambulatory reference provision as a means of

keeping regulations up to date. One response focused entirely on questioning the legal implications for the UK of including such a provision. The Department responded noting that the UK was obliged as a matter of international law to implement into its domestic law all international obligations that it is bound by, and that the power in section 306A of the Merchant Shipping Act 1995 was scrutinised, and passed, by Parliament and has previously been relied upon to make ambulatory references in other merchant shipping regulations; therefore, this was considered an appropriate means of keeping the Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020 up to date.

- 10.4 The final response did not comment on the use of the ambulatory reference provision but highlighted a number of proposed amendments to the revised draft of MSN 1676. The Department thanked the respondent for their thorough review of the consultation documents and noted that the primary aim of the consultation was to replace the existing UK regulations in order to implement amendments to Chapter III of SOLAS, and to ensure that all future amendments to the relevant SOLAS requirements are automatically implemented into domestic law by including an ambulatory reference provision in the regulations. The respondent was advised that their suggested amendments would be considered for inclusion in a further revision of MSN 1676 in Autumn/Winter 2020.

## **11. Guidance**

- 11.1 In addition to mandatory requirements for existing ships and new ships on international voyages but which are not subject to Chapter III, MSN 1676 contains guidance on the working arrangements for the instrument. It also contains information and guidance on approvals required by Chapter III for new ships on international voyages, including where life-saving appliances or arrangements must be to the satisfaction of the Administration.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the instrument relates to the updating and maintenance of existing regulatory standards and the estimated impacts fall well below the threshold of +/- £5m annual impacts that would require an Impact Assessment to be prepared.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken was to analyse the companies owning UK registered ships in order to estimate the impacts upon small businesses. The analysis concluded that around 3% of ships (approximately 25 ships) on the UK Shipping Register are owned by companies which may employ less than 50 people. The vast majority of companies owning UK registered ships are large multinational, or subsidiaries of multinational, companies and would therefore fall outside of the scope of the small firms' impact test. There are not expected to be any disproportionate impacts on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that the Chapter III and LSA Code amendments are primarily concerned with the carriage of lifeboats, liferafts, lifejackets, immersion suits, lifebuoys, flares, and similar life-saving equipment and arrangements. In the interests of safety, it is not possible to justify different requirements in these areas on the basis that a company has fewer employees.

#### **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is to review the Regulations and a report of that review will be published no later than five years from the coming into force of the Regulations, and every five years thereafter.

14.2 A statutory review clause is included in the Regulations.

#### **15. Contact**

15.1 Rob Taylor at the Maritime and Coastguard Agency Telephone: 020 381 72466 or email: [rob.taylor@mcga.gov.uk](mailto:rob.taylor@mcga.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Gwilym Stone, Deputy Director for Ship Standards at the Maritime and Coastguard Agency, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kelly Tolhurst MP, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.