

2021 No. 592

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Cargo Ship) (Bilge Alarm) Regulations
2021**

<i>Made</i> - - - -	<i>17th May 2021</i>
<i>Laid before Parliament</i>	<i>24th May 2021</i>
<i>Coming into force</i> - -	<i>30th June 2021</i>

The Secretary of State in exercise of the powers conferred by sections 85(1), (3)(a), (d) and (f), (6) and (7) and 86(1) of the Merchant Shipping Act 1995^(a), and having consulted the persons referred to in section 86(4) of that Act, makes the following Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Merchant Shipping (Cargo Ship) (Bilge Alarm) Regulations 2021 and come into force on 30th June 2021.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“cargo ship” means a mechanically propelled ship that is not a—

- (a) passenger ship;
- (b) warship;
- (c) fishing vessel; or
- (d) pleasure vessel;

“passenger” means any person carried on a ship except—

- (a) a person employed or engaged in any capacity on the business of the ship;
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled; or
- (c) a child of under one year of age;

^(a) 1995 c. 21. Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7, Part 1. Section 85 was amended by the British Overseas Territories Act 2002 (c. 8), section 2(3). There are other amendments to section 85 which are not relevant to these Regulations.

“passenger ship” means a ship which carries more than 12 passengers;

“pleasure vessel” means—

- (a) any vessel which at the time it is being used is—
 - (i) in the case of a vessel wholly owned by—
 - (aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
 - (bb) a body corporate, used only for sport or pleasure and on which the persons are employees or officers of the body corporate, or their immediate family or friends; and
 - (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the 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 excursion; or
- (b) any vessel 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 the 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, where, in the case of any vessel referred to in paragraphs (a) or (b) no other payments are made by or on behalf of the users of the vessel, other than by the owner; and in this definition “immediate family” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the relative’s spouse or civil partner, and “relative” means brother, sister, ancestor or lineal descendant.

Application

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

- (a) United Kingdom ships which are cargo ships of less than 500 gross tons and which are 24 metres or more in length, wherever they may be; and
- (b) non-United Kingdom cargo ships of less than 500 gross tons and which are 24 metres or more in length, while they are within United Kingdom waters.

(2) These Regulations do not apply to—

- (a) non-United Kingdom cargo ships exercising the right of—
 - (i) innocent passage; or
 - (ii) transit passage through straits used for international navigation; and
- (b) any naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government, non-commercial service.

(3) In this regulation—

“gross tons” means the gross tonnage of a ship determined in accordance with the Schedule (Gross Tonnage);

“length” has the same meaning as in regulation 2 of the Merchant Shipping (Load Line) Regulations 1998(a).

Bilge water level detectors and alarms

4.—(1) A ship to which these Regulations apply must, at its effective date, have a bilge water level detector installed in—

- (a) any engine room; and
- (b) any other space where bilge water is likely to accumulate.

(a) S.I. 1998/2241. The definition of “length” was substituted by S.I. 2000/1335.

(2) A bilge water level detector referred to in paragraph (1) must sound an audible alarm which meets the requirements of paragraph (3)—

- (a) at the control position, immediately upon the bilge water reaching the relevant level; and
- (b) in all accommodation spaces, if the alarm has not been switched off at the control position after 30 seconds of the bilge water reaching the relevant level.

(3) The alarm must sound at a volume which—

- (a) in the case of the control position, will be heard; and
- (b) in the case of an accommodation space, is capable of waking a sleeping person,

in all of the weather and operational conditions reasonably anticipated to be applicable to that ship.

(4) Where a ship is fitted with more than one bilge water level detector, there must be a visual alarm at the control position which shows which of the bilge water level detectors has detected water reaching the relevant level.

(5) The bilge water level detectors and associated alarms required by this regulation must be able to continue to operate when the ship's main power supply is not in operation.

(6) In this regulation—

“accommodation space” means a space used as a public space, corridor, lavatory, cabin, office, hospital, cinema, games and hobby room, barber shop, pantry without cooking appliances or any similar space;

“bilge water” means any water or other liquids that collect in the bilge;

“bilge water level detector” means a device which detects the level of bilge water in the bilge;

“control position” means the area from which the command and navigation of the ship is carried out;

“effective date” means—

- (a) in the case of a new ship, the date that these Regulations come into force; and
- (b) in the case of any other ship to which these Regulations apply, the first anniversary of the date that these Regulations come into force;

“new ship” means a ship the keel of which is laid, or which is at a similar stage of construction, on or after the date on which these Regulations come into force;

“relevant level” means a level of bilge water that—

- (a) is the maximum level that may be reached before the buoyancy and stability of the ship is threatened; and
- (b) provides reasonable time for persons on board the ship to take action to prevent the buoyancy and stability of that ship being compromised;

“similar stage of construction” means the stage at which—

- (a) construction identifiable with a particular 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 the less.

Exemptions

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

- (a) in any particular case or class of case compliance with such requirement or requirements is either impracticable or unreasonable; and

- (b) the exemption is subject to such conditions and limitations as will provide a level of safety equivalent to that provided by the requirement or requirements from which the exemption is being granted.

(2) The Secretary of State may, on giving reasonable notice, alter or cancel an exemption that is granted in accordance with paragraph (1).

(3) An exemption granted under paragraph (1) and alteration or cancellation under paragraph (2) must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) confirm the conditions (if any) on which it is given.

(4) In this regulation “in writing” includes the provision of such communication by electronic mail, facsimile or similar means which is capable of producing a document containing the text of any communication.

Offence and penalties

6.—(1) If a ship to which these Regulations apply does not meet the requirements of regulation 4, each of the owner, manager, demise charterer and master of that ship will, in respect of each case of non-compliance, be guilty of an offence.

(2) An offence under paragraph (1) is punishable—

- (a) on summary conviction—
 - (i) in England and Wales by a fine; or
 - (ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

(3) In any proceedings for an offence under these Regulations it is a defence for the defendant to show that all reasonable steps had been taken by the defendant to ensure compliance with these Regulations.

Detention

7.—(1) A ship that does not meet the requirements of regulation 4 is liable to be detained until it complies.

(2) Section 284 of the Merchant Shipping Act 1995^(a) (enforcing detention of a ship) applies to that detention as if references to the detention of a ship under that Act were references to the detention of the ship under these Regulations.

Signed by authority of the Secretary of State for Transport

17th May 2021

Robert Courts
Parliamentary Under Secretary of State
Department for Transport

(a) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 1, paragraph 5, and S.I. 2015/664, Schedule 4, Part 1, paragraph 27(1) and (15).

SCHEDULE

Regulation 3

Gross Tonnage

1. The “gross tonnage” of a United Kingdom ship is to be determined in accordance with paragraphs 3 and 4, and the “gross tonnage” of a ship other than a United Kingdom ship is to be determined in accordance with paragraphs 5 to 7.

2. In this Schedule—

“the 1997 Regulations” means the Merchant Shipping (Tonnage) Regulations 1997(a);

“length” has the same meaning as in the 1997 Regulations; and

“the Tonnage Convention” means the International Convention on Tonnage Measurement of Ships, 1969(b).

United Kingdom ships

3. In the case of a ship of 24 metres in length or over for which the Secretary of State permits the continuing use of a gross tonnage pursuant to regulation 12(1) (use of gross tonnage ascertained under previous Regulations) of the 1997 Regulations, the “gross tonnage” is the smaller of—

- (a) the largest gross tonnage permitted for that ship pursuant to regulation 12(1) of the 1997 Regulations; and
- (b) the gross tonnage of the ship determined in accordance with regulation 6 (gross tonnage) of the 1997 Regulations.

4. In the case of any other ship of 24 metres in length or over, the “gross tonnage” is the gross tonnage of the ship determined in accordance with regulation 6 (gross tonnage) of the 1997 Regulations.

Ships other than United Kingdom ships

5. Subject to paragraph 6, in the case of a ship which has a gross tonnage determined in accordance with the Tonnage Convention, the “gross tonnage” is that gross tonnage.

6. Where a ship has a gross tonnage determined in accordance with the Tonnage Convention but the ship’s flag State permits the use of some other gross tonnage, the “gross tonnage” of the ship is the smaller of—

- (a) the largest gross tonnage permitted by the flag State to be used for that ship; and
- (b) the gross tonnage determined in accordance with the Tonnage Convention.

7. In the case of a ship which does not have a gross tonnage determined in accordance with the Tonnage Convention, the “gross tonnage” is the gross tonnage or equivalent measure determined in accordance with the law of the ship’s flag State, and where the ship has more than one such gross tonnage or equivalent measure, the “gross tonnage” is to be taken to be the largest of them.

(a) S.I. 1997/1510, amended by S.I. 1998/1916 and 2005/2114.

(b) The Tonnage Convention was published by Cmnd. 4332 and subsequently in Cmnd. 8716. An electronic copy of the Tonnage Convention is available via the Foreign and Commonwealth office treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=68110>). A hard copy of Cmnd. 8716 is available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW (catalogue number: HL/PO/JO/10/11/2156/147).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement and supplement Recommendation 2009/141 of the Marine Accident Investigation Branch Report on the investigation into the flooding and foundering of the grab hopper dredger Abigail H in the Port of Heysham of July 2009 ('the Report').

The Regulations apply to United Kingdom ships which are cargo ships of less than 500 gross tons and which are 24 metres or more in length, wherever they might be, and to non-United Kingdom cargo ships of less than 500 gross tons and which are 24 metres or more in length while they are within United Kingdom waters and not exercising the right of innocent passage or transit passage (regulation 3).

Regulation 4 requires bilge water level detectors to be installed in any engine room and in any other space in which bilge water is likely to accumulate, and for those detectors to sound an audible alarm at the control position and in all accommodation spaces in the circumstances described.

The Regulations make provision for exemptions (regulation 5), offences and penalties (regulation 6) and the detention of ships (regulation 7).

A draft of these Regulations was notified on 2nd October 2020 to the European Commission in accordance with the Technical Standards Directive (Directive (EU) 2015/1535).

Guidance supporting these Regulations has been published in a Marine Guidance Note (MGN 651(M)). Copies of the Report and of MGN 651(M) may be obtained free of charge at <https://www.gov.uk> or in hard copy from the Maritime and Coastguard Agency at Spring Place, 105 Commercial Road, Southampton SO15 1EG.

An impact assessment of the effect this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside these Regulations on www.legislation.gov.uk.

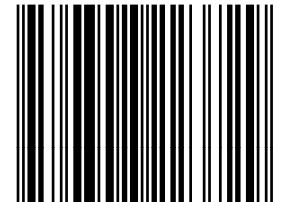
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