

**2021 No. 81**

**MERCHANT SHIPPING**

**SAFETY**

**The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2021**

<i>Made</i> - - - -	<i>25th January 2021</i>
<i>Laid before Parliament</i>	<i>28th January 2021</i>
<i>Coming into force</i> - -	<i>22nd February 2021</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 85(1), (3)(c), (d), (f), (l), (o), (p) and (q), (5) to (7) and 86(1) of the Merchant Shipping Act 1995(a).

In accordance with section 86(4) of that Act, the Secretary of State has consulted such persons as the Secretary of State considers will be affected by these Regulations.

**Citation and commencement**

1. These Regulations may be cited as the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2021 and come into force on 22nd February 2021.

**Amendment of Regulations**

2.—(1) The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999(b) are amended as follows.

(2) In regulation 3 (interpretation), in paragraph (1)—

(a) after the definition of “appropriate search and rescue services” insert—

““Area D” has the meaning given in regulation 3A(1)(d) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000(c);

“automatic identification system” means equipment fitted on board a ship which meets the requirements specified in Merchant Shipping Notice 1794 (M) Amendment 1;

“Category A, B, C or D waters” means those categories of waters in the United Kingdom as specified in Merchant Shipping Notice 1837 (M) Amendment 2;”;

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(a) 1995 c.21 Sections 85 and 86 were amended by the Merchant Shipping 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.

(b) S.I. 1999/1869, amended by S.I. 2010/680, 2010/1075, 2011/1043, 2019/649.

(c) S.I. 2000/2687, amended by S.I. 2020/1222; there are other amending instruments but none is relevant.

- (b) after the definition of “the Directive” insert—
    - ““high speed craft” has the meaning given in regulation 2 of The Merchant Shipping (High Speed Craft) Regulations 2004(a);”;
  - (c) omit the definition of “Maritime and Coastguard Agency”;
  - (d) for the definition of “Merchant Shipping Notice”, substitute—
    - ““Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport) and includes a reference to any document amending or replacing that notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;”;
  - (e) after the definition of “mile” insert—
    - ““National Single Window” means the technical platform for receiving, exchanging and forwarding information electronically, as specified in Merchant Shipping Notice 1794 (M) Amendment 1;”;
  - (f) omit the definition of “protected sea area”;
  - (g) after the definition of “person” insert—
    - ““pleasure vessel” has the same meaning as in regulation 2 of The Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020(b);”;
  - (h) in the definition of “regular service”, after “two or more ports” insert “, or a series of voyages from and to the same port without intermediate calls.”.
- (3) In regulation 4 (application), for paragraph (2)(c) substitute—
- “(c) pleasure vessel;”.
- (4) In regulation 5 (passenger counting)—
- (a) in paragraph (1)(b), for “M 1729” substitute “1794 (M) Amendment 1”;
  - (b) in paragraph (4), after “and the passenger registrar” insert “and, subject to paragraphs (4A) and (4B), reported in the National Single Window or communicated to the appropriate search and rescue services by means of the passenger ship’s automatic identification system”;
  - (c) after paragraph (4), insert—
    - “(4A) Before 20th December 2023, the total number of persons on board a passenger ship may alternatively be communicated to the master of the ship and the passenger registrar with no further requirement of reporting in the National Single Window or communication by means of the ship’s automatic identification system.
    - (4B) The requirement to report in the National Single Window or communicate the total number of passengers on board a passenger ship by means of the automatic identification system does not apply in relation to a ship that operates exclusively on Category A, B, C or D waters.”.
- (5) In regulation 6 (additional requirements for voyages of more than 20 miles)—
- (a) in paragraph (1)(a)(i), after “more than 20 miles from that landing point” insert “to the next port of call”;
  - (b) in paragraph (1)(b), after “more than 20 miles from that landing point” insert “to the next port of call except a ship operating exclusively on Category A, B, C or D waters”;
  - (c) in paragraph (2), omit “on or after the 1st January 2000”;
  - (d) in paragraph (2)(b), for sub-paragraph (i) substitute—
    - “(i) subject to paragraph (2A), reported in the National Single Window within 15 minutes of the ship’s departure from the landing point; and”;

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(a) S.I. 2004/302; relevant amending instruments are S.I. 2005/2114, 2012/2636, 2020/1222.  
 (b) S.I. 2020/501.

- (e) in paragraph (2)(b)(ii), for “specified in sub-paragraph (e)” substitute “specified in sub-paragraph (f)”;
  - (f) after paragraph (2)(b)(ii), insert—
    - “(2A) Before 20th December 2023, the information required to be reported in accordance with paragraph (2)(b)(i) may alternatively be communicated to the passenger registrar within 15 minutes of the ship’s departure from the landing point.”;
  - (g) in paragraph (3), for sub-paragraph (b) to the end substitute—
    - “(b) forenames;
    - (c) gender;
    - (d) nationality;
    - (e) date of birth; and
    - (f) when volunteered by a person—
      - (i) information concerning special care or assistance that might be needed in an emergency;
      - (ii) a contact number in case of an emergency”; and
  - (h) omit paragraph (4).
- (6) In regulation 7 (ships which are on voyages from outside the European Union and the United Kingdom and are neither Community ships nor United Kingdom ships), for “the owner shall make” to the end substitute—
- “the owner shall—
- (a) communicate information as to the total number of persons on board the ship in accordance with regulation 5(4); and
  - (b) report the information specified in regulation 6(3) in accordance with regulation 6(2)(b)”.
- (7) In regulation 8 (registration system)—
- (a) in paragraph (1)(a)(i), for “M 1729” substitute “1794 (M) Amendment 1”;
  - (b) for paragraph (1)(b), substitute—
    - “(b) appoint a passenger registrar who shall be responsible for the transmission of information collected pursuant to these Regulations to the appropriate search and rescue services in the event of an emergency or, in the aftermath of an accident involving the ship and, where applicable, the reporting of this information in the National Single Window; and”;
  - (c) for paragraph (2), substitute—
    - “(2) Personal data which is collected in accordance with regulation 6(2) must be kept by the owner of a passenger ship—
      - (a) for no longer than is necessary for the purpose of these Regulations; and
      - (b) in any event, no later than the moment the ship’s voyage has been safely completed and the data has been reported in the National Single Window or, as the case may be, to the passenger registrar after which it shall be erased without undue delay.”.
- (8) In regulation 9 (exemptions)—
- (a) in paragraph (1), before “such conditions” insert “paragraph (2) and in any case not falling within that paragraph to”;
  - (b) for paragraph (2), substitute—
    - “(2) The Secretary of State may only exempt a passenger ship—
      - (a) from the requirement to report the number of persons on board a passenger ship in accordance with regulation 5(4) if—
        - (i) it is not a high speed craft;

- (ii) it operates exclusively in Area D on a regular service of less than one hour between calls at landing points; and
- (iii) the proximity of search and rescue facilities is ensured in that sea area; or
- (b) from the requirements of regulation 6(2) if the passenger ship—
  - (i) sails exclusively in Area D between two landing points or from and to the same landing point without intermediate calls where the proximity of search and rescue facilities is ensured; or
  - (ii) is engaged on a regular community service.”.

## Review

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

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 22nd February 2026.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015<sup>(a)</sup> requires that a review carried out under this regulation must, so far as is reasonable, have regard to how other member States have implemented Council Directive 2017/2109 EC<sup>(b)</sup> of 15th November 2017 concerning the registration of persons sailing on board passenger ships.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

25th January 2021

*Robert Courts*  
Parliamentary Under Secretary of State  
Department for Transport

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(a) 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12), and Schedule 8, Part 2 paragraph 36 of the European Union (Withdrawal) Act 2018 (c.16).  
 (b) O.J. L 315, 30.11.2017 p.52.

## EXPLANATORY NOTE

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

These Regulations implement Directive (EU) 2017/2109 of the European Parliament and of the Council of 15th November 2017 amending Directive 98/41 EC. The Regulations make a number of amendments to the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999 (S.I. 1999/1869) (“the 1999 Regulations”) to provide for the new passenger reporting requirements applicable to United Kingdom passenger ships and passenger ships in United Kingdom waters.

Regulation 2(2) amends the definitions in regulation 3 of the 1999 Regulations and inserts new definitions for terms such as ‘automatic identification system’ and ‘National Single Window’ which some ship owners will be required to use to report passenger information. Regulation 2(3) amends the application of the 1999 Regulations. Regulation 2(4)(b) requires some ship owners to use either the automatic identification system or the National Single Window to report the number of passengers on board. Regulation 2(5)(d) provides that for voyages above 20 nautical miles, the owner of a ship must report in the National Single Window additional personal information in relation to each person on board a passenger ship unless that ship operates exclusively on Category A, B, C or D waters. The additional personal information required is specified in regulation 2(5)(g) which amends regulation 6(3) of the 1999 Regulations. Regulations 2(4)(c) and 2(5)(f) make provision for a transition period until 20th December 2023 in which ship owners may continue to communicate the total number of persons on board to the master of the ship and passenger registrar and personal passenger information to the passenger registrar.

Regulation 2(6) requires passenger ships which are on voyages to the United Kingdom from outside the European Union and are neither Community ships nor United Kingdom ships to adhere to the same reporting requirements as set down in regulations 5(4) and 6(2)(b) of the 1999 Regulations.

Regulation 2(7)(c) amends the data protection requirements which need to be considered by ship owners when collecting and reporting passenger information.

Regulation 2(8) amends Regulation 9 of the 1999 Regulations so that the Secretary of State may exempt specific passenger ships from the passenger reporting requirements set down in regulations 5(4) and 6(2) of the 1999 Regulations.

Merchant Shipping Notice 1794 (M) Amendment 1 provides information on how the Regulations work in practice. All Merchant Shipping Notices referred to in these 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 and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton, SO15 1EG (telephone 020 3817 2000 and email [infoline@mca.gov.uk](mailto:infoline@mca.gov.uk)).

A full impact assessment has not been produced for this instrument as it is not expected to have significant impact on the public or voluntary sectors and only minimal impact on the private sector is foreseen.

An Explanatory Memorandum is published alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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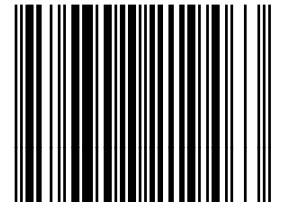


£4.90

UK202101261009 02/2021 19585

<http://www.legislation.gov.uk/id/uksi/2021/81>

ISBN 978-0-34-821946-3



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