
STATUTORY INSTRUMENTS

2023 No. 246

The Merchant Shipping (Cargo and Passenger Ship Construction and Miscellaneous Amendments) Regulations 2023

PART 2

General

Interpretation

3. In these Regulations—

“cargo ship” means a ship which is not a passenger ship;

“Chapter II-1” means Chapter II-1 in the Annex to the Convention (construction: structure, subdivision and stability, machinery and electrical installations)(1);

“Convention” means the International Convention for the Safety of Life at Sea, 1974(2);

“fishing vessel” means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;

“gross tonnage” means gross tonnage determined in accordance with regulation 6 or 12(1) of the Merchant Shipping (Tonnage) Regulations 1997(3);

“intermediate ship” means a ship—

(a) which is not a new ship; and

(b) in respect of which—

(i) the keel is laid on or after 1st January 2009; or

(ii) the ship is at a similar stage of construction on or after that date;

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- (1) Chapter II-1 in the Annex to the Convention (see footnote (b)) was replaced in full by the International Maritime Organization (IMO) Resolution MSC.1(45) and further amended by IMO Resolutions MSC.6(48) (Cm 3927), MSC.11(55) (Cm 1251), MSC.12(56) (Cm 3848), MSC.13(57), MSC.19(58) (Cm 3845), MSC.26(60), MSC.27(61), MSC.31(63) (Cm 3849), MSC.47(66) (Cm 4064), MSC.57(67) (Cm 4158), MSC.65(68) (Cm 4457), MSC.69(69) (Cm 5771), MSC.99(73) (Cm 6001), MSC.134(76) (Cm 6587), MSC.151(78), MSC.170(79), MSC.194(80), MSC.216(82), MSC.256(84), MSC.269(85), MSC.282(86), MSC.290(87), MSC.291(87), MSC.308(88), MSC.325(90), MSC.338(91), MSC.365(93), MSC.392(95), MSC.409(97), MSC.421(98) and MSC.436(99). The amendments to Chapter II-1 are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>).
- (2) Cmnd 7874. The Convention may be obtained in copy from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=79786>). The Convention was modified by its Protocol of 1978 (Cmnd. 8277) (<https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=68013>), which was replaced and abrogated by the Protocol of 1988 (Cm 5044) (<https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=69573>) with respect to the parties to the 1988 Protocol. The amendments to the Convention are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>). Hard copies of the Command Papers are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW. The Parliamentary Archives catalogue numbers for the Command Papers are HL/PO/JO/10/11/2031/2878 (Cmnd 7874), HL/PO/JO/10/11/1959/2032 (Cmnd 8277) and HL/PO/JO/10/11/3156/2280 (Cm 5044).
- (3) *S.I. 1997/1510*, amended by *S.I. 1998/1916*, *1999/3206* and *2020/362*; there are other amending instruments but none is relevant.

“international voyage” means a voyage between—

- (a) a port in the United Kingdom and a port outside the United Kingdom; or
- (b) a port in a Convention country (other than the United Kingdom) and a port in any other country or territory (whether a Convention country or not) which is outside the United Kingdom,

and, for the purposes of paragraph (b), “Convention country” means a country or territory which is either a country the Government of which is party to the Convention or a territory to which the Convention extends whether or not it is subject to the amendments to, or reservations in respect of, the Convention;

“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;

“new ship” means a ship—

- (a) in respect of which the building contract is placed on or after 1st January 2020;
- (b) in respect of which, in the absence of a building contract—
 - (i) the keel is laid on or after 1st July 2020; or
 - (ii) the ship is at a similar stage of construction on or after that date; or
- (c) the delivery of which is on or after 1st January 2024;

“passenger” means a 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; and
- (b) a child under one year of age;

“passenger ship” means a ship which carries more than twelve 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 on board 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 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,

where, in the case of any vessel referred to in paragraph (a) or (b), no other payments 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 spouse or civil partner of the individual, and

a relative of the individual or the individual's spouse or civil partner; and "relative" means brother, sister, ancestor or lineal descendant;

"similar stage of construction" means a 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 3 per cent of the estimated mass of all structural material, whichever is less.

Application

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

- (a) United Kingdom ships, wherever they may be; and
- (b) non-United Kingdom ships while they are within United Kingdom waters.

(2) These Regulations do not apply to—

- (a) ships of war or naval auxiliary ships;
- (b) ships owned or operated by a State and engaged only on governmental non-commercial service;
- (c) cargo ships of less than 500 gross tonnage;
- (d) ships not propelled by mechanical means;
- (e) wooden ships of primitive build;
- (f) pleasure vessels;
- (g) fishing vessels;
- (h) ships to which the Merchant Shipping (Cargo Ship Construction) Regulations 1997(4) apply;
- (i) ships to which the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000(5) apply;
- (j) craft to which the Merchant Shipping (High Speed Craft) Regulations 2022(6) apply;
- (k) ships solely navigating the Great Lakes of North America and the River St Lawrence as far east as a straight line drawn from Cap Des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

(3) A non-United Kingdom ship flying the flag of a State which is not a party to the Convention is not subject to these Regulations if it would not have been in United Kingdom waters but for stress of weather or any other circumstances which the master, owner or charterer could not have prevented.

(4) Where persons are on board a ship as a consequence of—

- (a) the circumstances described in paragraph (3); or
- (b) an obligation laid upon the master to carry shipwrecked or other persons(7),

those persons are not to be taken into account for the purpose of determining the application to that ship of any provision of these Regulations.

(4) S.I. 1997/1509, amended by S.I. 1997/2971, 1999/643, 2004/302, 2004/2151, 2005/2114 and 2018/1221.

(5) S.I. 2000/2687, amended by S.I. 2002/1473, 2004/302, 2004/2883, 2010/680, 2012/2636, 2018/53, 2018/1221, 2020/501 and 2020/1222; there are other amending instruments but none is relevant.

(6) S.I. 2022/1219.

(7) Regulation 33 in Chapter V of the Convention (safety of navigation) places an obligation on the master to provide assistance to persons in distress at sea. This obligation is implemented in the Merchant Shipping (Safety of Navigation) Regulations 2020 (S.I. 2020/673).

Repairs, alterations, modifications and outfitting

5.—(1) A ship which undergoes repairs, alterations, modifications, or outfitting related to such repairs, alterations or modifications, must continue to comply with at least the requirements previously applicable to that ship.

(2) A ship constructed before the date on which any relevant amendments come into force (“Date A”), and which undergoes repairs, alterations or modifications, or outfitting related to such repairs, alterations or modifications must, so far as practicable, comply with the requirements for ships constructed on or after Date A to at least the same extent as it did before undergoing such repairs, alterations, modifications or outfitting.

(3) A ship which undergoes repairs, alterations and modifications of a major character, or outfitting related to such repairs, alterations or modifications, must comply with the requirements for ships constructed on or after any relevant amendments come into force.

(4) In this regulation—

“relevant amendment” means a modification or a replacement of a requirement in Chapter II-1 which comes into force in accordance with Article VIII of the Convention.

Ambulatory reference

6.—(1) In these Regulations, any reference to Chapter II-1 is to be construed—

- (a) as a reference to Chapter II-1 as modified from time to time; and
- (b) as, if Chapter II-1 is replaced, a reference to its replacement.

(2) For the purposes of paragraph (1), Chapter II-1 is modified or replaced if the modification or replacement takes effect in accordance with Article VIII of the Convention.

(3) A modification or replacement of Chapter II-1 has effect at the time such modification or replacement comes into force in accordance with Article VIII of the Convention.

Exemptions

7.—(1) The Secretary of State may exempt from any provision of these Regulations—

- (a) a ship which does not normally engage on international voyages but is, in exceptional circumstances, required to undertake a single international voyage;
- (b) a ship which embodies features of a novel kind if research into the development of those features and their incorporation in ships engaged on international voyages may be seriously impeded if the ship had to comply with the requirements of Chapter II-1;
- (c) a ship or class of ship which, during a voyage, does not proceed more than 20 miles from the nearest land, and where the Secretary of State is satisfied that the sheltered nature and conditions of such a voyage make it unreasonable or unnecessary to apply the requirements of Chapter II-1;
- (d) a ship employed in special trades⁽⁸⁾ for the carriage of large numbers of special trade passengers (such as the pilgrim trade) where—
 - (i) the Secretary of State is satisfied that it is impracticable to enforce compliance with the requirements of Chapter II-1; and
 - (ii) the ship complies with—

(8) “Special trade” is defined in Rule 2 of the Special Trade Passenger Ships Agreement, 1971 (Cmnd 7761).

- (aa) the rules annexed to the Special Trade Passenger Ships Agreement, 1971(9); and
- (bb) the rules annexed to the Protocol on Space Requirements for Special Trade Passenger Ships, 1973(10).

(2) The Secretary of State may exempt from the requirements of regulation 5(3) (repairs, alterations, modifications and outfitting) a ship or class of ship if satisfied that compliance with such provision is either impracticable or unreasonable in the case of that ship or class of ship.

(3) The Secretary of State may, in exceptional circumstances not provided for in paragraph (1), exempt from any provision of these Regulations a ship or class of ship if satisfied that compliance with such provision is either impracticable or unreasonable in the case of that ship or class of ship.

(4) An exemption under paragraph (1), (2) or (3) may be granted subject to such safety requirements as the Secretary of State thinks fit to ensure the overall safety of the ship.

(5) An exemption granted under paragraph (1), (2) or (3) may, on the giving of reasonable notice, be altered or cancelled.

(6) An exemption granted under paragraph (1), (2) or (3), or an alteration or cancellation under paragraph (5), must—

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

(7) The requirement that the exemption granted under paragraph (1), (2) or (3), or an alteration or cancellation under paragraph (5), be in writing is satisfied where the text of the exemption, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

(8) Where an exemption is granted subject to safety requirements under paragraph (4), the exemption ceases to have effect if those requirements are not complied with.

(9) In this regulation, “mile” means a nautical mile of 1,852 metres.

Equivalents

8.—(1) Where a provision of Chapter II-1 requires that—

- (a) a particular fitting, material, appliance or apparatus, or a type of fitting, material, appliance or apparatus be fitted on, or carried in, a ship;
- (b) any particular arrangement be made on, or in relation to, a ship; or
- (c) any particular provision be made in relation to a ship,

the Secretary of State may approve any other fitting, material, appliance or apparatus, arrangement or other provision as an alternative to the requirement in question if satisfied that it is as least as effective as that required by Chapter II-1.

(9) Cmnd 7761. The Special Trade Passenger Ships Agreement, 1971 is available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/data/Library2/pdf/1980-TS0007.pdf>).

(10) Cmnd 7761. The rules annexed to the Protocol on Space Requirements for Special Trade Passenger Ships, 1973 are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/data/Library2/pdf/1980-TS0007.pdf>).

(2) An approval given under paragraph (1) may, on the giving of reasonable notice, be continued, altered or cancelled.

(3) Any approval given under paragraph (1), or a continuation, alteration or cancellation under paragraph (2), must—

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

(4) The requirement that the approval referred to in paragraph (1), or a continuation, alteration or cancellation under paragraph (2), be in writing is satisfied where the text of the approval, continuation, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

Approvals

9.—(1) In complying with the requirements of Chapter II-1 with respect to the design, construction or maintenance relating to hull, machinery, electrical installations and control installations a United Kingdom ship must comply with the approved standards listed in Merchant Shipping Notice 1672 (M+F) Amendment 4(11) which are relevant to it.

(2) The Secretary of State, or a person authorised by the Secretary of State, may give an approval in relation to a United Kingdom ship for anything in Chapter II-1 requiring to be—

- (a) approved by the Administration of the State whose flag the ship is entitled to fly;
- (b) done to the satisfaction of such Administration; or
- (c) acceptable to that Administration(12).

(3) Unless approved under the Merchant Shipping (Marine Equipment) Regulations 2016(13), equipment required by Chapter II-1 or Merchant Shipping Notice 1907(M)(14) and placed on board a United Kingdom ship must be approved by the Secretary of State, or any person authorised by the Secretary of State.

(4) An approval given under paragraph (2) or (3) may, on the giving of reasonable notice, be continued, altered or cancelled.

(5) Any approval given under paragraph (2) or (3), or a continuation, alteration or cancellation under paragraph (4), must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and

(11) Merchant Shipping Notice 1672 (M+F) Amendment 4 (published in December 2020) is available on <https://www.gov.uk/government/publications/msn-1672-mf-amendment-4-ship-inspection-and-survey-organisations>, and in hard copy from the Maritime and Coastguard Agency of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mcga.gov.uk).

(12) The circumstances in which the approval of the Secretary of State is required in relation to United Kingdom ships constructed on or after 1st July 2009 and engaged on international voyages are set out in Marine Guidance Note (MGN) 670(M); this is available on <https://www.gov.uk/government/collections/marine-guidance-notices-mgns> 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@mcga.gov.uk).

(13) S.I. 2016/1025, amended by S.I. 2019/470, 2019/1304 and 2020/1000; there are other amending instruments but none is relevant.

(14) Merchant Shipping Notice 1907(M) is available on <https://www.gov.uk/government/collections/merchant-shipping-notices-msns> 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@mcga.gov.uk).

(c) specify the terms, if any, on which it is given.

(6) The requirement that the approval referred to in paragraph (2) or (3), or a continuation, alteration or cancellation under paragraph (4), be in writing is satisfied where the text of the approval, continuation, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

Alternative design and arrangements

10.—(1) Machinery, electrical installations and low-flashpoint fuel storage and distribution systems design and arrangements for a new or intermediate ship to which Part C, D, E or G of Chapter II-1 applies may deviate from the requirements in Part C, D, E or G of Chapter II-1 provided that the alternative design and arrangements meet the intent of those requirements and provide an equivalent level of safety.

(2) In relation to a ship to which paragraph (1) applies—

- (a) an alternative design or arrangement must be subjected to an engineering analysis in accordance with regulation 55.3 of Chapter II-1 (alternative design and arrangements – engineering analysis); and
- (b) a copy of the engineering analysis must be provided by the owner to the Secretary of State.

(3) The alternative design or arrangement and the engineering analysis described in paragraph (2) must be approved by the Secretary of State.

(4) Where the assumptions and operational restrictions stipulated in the alternative design or arrangement described in paragraph (2) are changed—

- (a) a further engineering analysis must be carried out which takes into account the changed assumptions and operational restrictions; and
- (b) any amendment to the alternative design or arrangement must be evaluated and approved by the Secretary of State, if satisfied that such alternative design or arrangement is at least as effective as that required by Chapter II-1.

(5) An approval given under paragraph (3) or (4) may, on the giving of reasonable notice, be continued, altered or cancelled.

(6) An approval given under paragraph (3) or (4), or a continuation, alteration or cancellation under paragraph (5), must—

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

(7) The requirement that the approval given under paragraph (3) or (4), or a continuation, alteration or cancellation under paragraph (5), be in writing is satisfied where the text of the approval, continuation, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

(8) A copy of an approval given under paragraph (3) or (4), or a continuation or alteration under paragraph (5), confirming that the alternative design or arrangement complies with Part C, D, E or G of Chapter II-1, must be carried on board the ship.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
