STATUTORY INSTRUMENTS

2018 No. 242

MERCHANT SHIPPING

The Merchant Shipping (Maritime Labour Convention) (Miscellaneous Amendments) Regulations 2018

Made - - - -	*20th February 2018*
Laid before Parliament	*28th February 2018*
Coming into force - -	*6th April 2018*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to measures relating to the safety of ships and the health and safety of persons on them(**2**) and in relation to measures relating to maritime transport(**3**).

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 85(1)(a) and (b), (3), (5) and (7) and section 86(1) and (2) of the Merchant Shipping Act 1995(**4**) and by section 2(2) of the European Communities Act 1972.

In accordance with section 86(4) of the Merchant Shipping Act 1995 the Secretary of State has consulted the persons referred to in that section.

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) (Miscellaneous Amendments) Regulations 2018 and come into force on 6th April 2018.

Amendment of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998

2.—(1) The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998(**5**) are amended as follows.

(**1**) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and Part I of the Schedule to, the European Union (Amendment) Act 2008 (c.7). The Maritime Labour Convention is regarded as one of the EU treaties within the meaning of section 1(2) of the European Communities Act 1972 by virtue of the European Communities (Definition of Treaties) (Maritime Labour Convention) Order 2009 (S.I. 2009/1757).

(**2**) S.I. 1993/595.

(**3**) S.I. 1994/757.

(**4**) 1995 c.21. Sections 85 and 86 were amended by section 8 of the Merchant Shipping and Maritime Security Act 1997 (c.28), and are applied to hovercraft by article 4 of the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350) (sections 85 and 86 re-enact sections 21 and 22 of the Merchant Shipping Act 1979 (c.39), to which that article refers). There are other amendments not relevant to these Regulations.

(**5**) S.I. 1998/2771, relevant amending instruments are S.I. 2000/482 and 2016/353.

(2) In regulation 4 (commercially operated large vessels complying with Code of Practice)—

(a) paragraph (1)(a) becomes paragraph (1);

(b) paragraph (1)(b) becomes paragraph (1A);

(c) for paragraph (3) substitute—

"(3) The following provisions do not apply to a vessel which has been examined, and in respect of which appropriate certificates have been issued, in accordance with the Code of Practice—

(a) the statutory instruments listed in Schedule 1; and

(b) regulations 29(2) and 30 of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014(**6**) (crew accommodation requirements and provision for certain older ships)".

(3) In regulation 5 (commercially operated small vessels complying with a Code of Practice)—

(a) in paragraph (2), after sub-paragraph (a) but before the "and" at the end insert—

"(aa) "Marine Guidance Note 490(M) Amendment 1" means the note described as such published by the Maritime and Coastguard Agency in September 2014;

(ab) "Marine Guidance Note 491(M) Amendment 1" means the note described as such published by the Maritime and Coastguard Agency in September 2014;";

(b) for paragraph (3), substitute—

"(3) The following provisions do not apply to a vessel which satisfies the requirements in paragraph (3A)—

(a) the statutory instruments listed in Schedule 2;

(b) regulations 29(2) and 30 of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (crew accommodation requirements and provision for certain older ships).

(3A) The requirements are that the vessel—

(a) has been examined and has been issued with a small commercial vessel certificate in accordance with the applicable Code of Practice; and

(b) in the case of a vessel the keel of which was laid or which was at a similar stage of construction on or after 7th August 2014, complies with the standards set out in—

(i) where the vessel is less than 200 tons, Annex 1 to Marine Guidance Note 490(M) Amendment 1; or

(ii) where the vessel is 200 tons or more but less than 500 tons, Annex 1 to Marine Guidance Note 491(M) Amendment 1.";

(c) omit paragraph (5).

(4) In Schedule 1 (statutory instruments disapplied in relation to large vessels complying with a Code of Practice), in the table omit the entry for the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014.

(5) In Schedule 2 (statutory instruments disapplied in relation to small vessels complying with a of Practice), in the table omit the entry for the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014.

(**6**) S.I. 2014/1613.

Amendment of the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010

3.—(1) The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010(**7**) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of "the MCA" insert—

> ""medical condition" includes both injury and illness, and a "significant medical condition" is a medical condition which adversely affects or is reasonably likely to adversely affect the seafarer's ability to carry out his or her duties, including the seafarer's ability to undertake emergency duties;";

(b) in the definition of "medical practitioner", after "means" insert "a person approved by the Secretary of State to issue medical fitness certificates who is".

(3) In regulation 8 (application for medical fitness certificate), after paragraph (2) insert—

"(2A) A person applying for a medical fitness certificate must disclose to the medical practitioner to whom the application is made—

(a) all existing medical conditions from which the person suffers and of which the person is aware (if any); and

(b) all medication which the person is taking (if any).

(2B) Disclosure required by paragraph (2A) must be made with the application or as soon as reasonably practicable afterwards.".

(4) Omit regulation 12(4) (meaning of "medical condition").

(5) After regulation 20 insert—

"**Review**

21.—(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 the end of 5th April 2023.

(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(**8**) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how Regulation 1.2 and Standard A1.2 of the Maritime Labour Convention, 2006 are implemented in other ratifying States.

(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 provision.

(**7**) S.I. 2010/737. Regulation 8 was amended by S.I. 2014/1614. There are other amendments but none are relevant.
(**8**) 2015 c.26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c.12).

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

Amendment of the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013

4.—(1) The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013(**9**) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of "pleasure vessel"—

(a) in paragraph (a), for sub-paragraph (i) substitute—

"(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";

(b) in the words after paragraph (b), for "paragraphs" substitute "paragraph".

Amendment of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014

5.—(1) The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014(**10**) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of "pleasure vessel"—

(a) in paragraph (a), for sub-paragraph (i) substitute—

"(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";

(b) in the words after paragraph (b), for "paragraphs" substitute "paragraph".

(3) In regulation 30 (application of certain regulations to older ships)—

(a) before paragraph (1) insert—

"(A1) A ship the keel of which was laid or which was at a similar stage of construction before 1st July 1979—

(a) as respects crew accommodation which has not been substantially reconstructed or altered on or after that date, must comply with the requirements set out in Schedule 6 to the Merchant Shipping (Crew Accommodation) Regulations 1978(**11**) as if those Regulations had not been revoked;

(b) as respects crew accommodation which has been substantially reconstructed or altered on or after that date but before 11th July 1997, must comply

(**9**) S.I. 2013/1785, to which there are other amending instruments but none are relevant.
(**10**) S.I. 2014/1613.
(**11**) S.I. 1978/795. Relevant amending instruments are S.I. 1979/491, 1984/41 and 1989/184. S.I. 1978/795 was revoked on 11th July 1997 by S.I. 1997/1508.