Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Merchant Shipping (Boatmasters' Qualifications, Crew and Hours of Work) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 410

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Boatmasters' Qualifications, Crew and Hours of Work) Regulations 2015

Made - - - -	*26th February 2015*
Laid before Parliament	*4th March 2015*
Coming into force - -	*4th April 2015*

The Secretary of State for Transport is a Minister designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to measures relating to the safety of ships and the health and safety of persons on them, to recognition of higher education diplomas, formal qualifications, or experience in the occupation, required for the pursuit of professions or occupations and to navigation on inland waterways.

The Secretary of State, in exercise of the powers conferred by sections 47(1) and (3) to (4B), 85(1), (3) and (5) to (7), 86(1) and (2), 302(1) and 307(1) of the Merchant Shipping Act 1995 [F3] ("the Act") and by section 2(2) of the European Communities Act 1972, makes the following Regulations.

The Secretary of State is satisfied, for the purposes of section 47(2) of the Act, that it is necessary or expedient in the interests of safety to make the Regulations in so far as they specify standards of competence to be attained and other conditions to be satisfied by officers and other seamen.

The Secretary of State, in so far as the Regulations are safety regulations [F4], has consulted the persons referred to in section 86(4) of the Act and, in so far as the Regulations are made under section 47 of the Act, has consulted with the organisations referred to in section 306(4) of the Act [F5].

The consent of the Treasury has been given, in so far as the Regulations are made under section 302(1) of the Act.

F1 S.I. 1993/595, **S.I**. 2002/248 and S.I. 2003/2901.

F2 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 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

F3 1995 c.21. Section 47 was amended by section 10 of the Marine Navigation Act 2013 (c.23). Section 85 was amended by the Merchant Shipping and Maritime Security Act 1997 (c.28), **section 8** and Schedule 7, Part I, and by the British Overseas Territories Act 2002 (c. 8), **section 2(3)**. Sections 85

and 86 were applied to hovercraft by virtue of article 4 of the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350).

F4 For the meaning of "safety regulations" see section 85(1) of the Act.

F5 Section 306(4) was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), **section 29(1)** and Schedule 6, paragraph 18.

PART 1

INTRODUCTORY PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Boatmasters' Qualifications, Crew and Hours of Work) Regulations 2015 and come into force on 4th April 2015.

Revocations

2. The following Regulations are revoked—

(a) the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006 [F6]; and

(b) the Merchant Shipping (Local Passenger Vessels) (Crew) Regulations 2006 [F7].

F6 S.I. 2006/ 3223, as amended by S.I. 2012/1659.

F7 S.I. 2006/3224.

Amendments to the Merchant Shipping (Fees) Regulations 2006

3.—(1) The Merchant Shipping (Fees) Regulations 2006 [F8] are amended as follows.

(2) In Part 5 of Schedule 1 (Boatmasters' Licences and Certificates)—

(a) omit paragraph (a);

(b) in paragraph (b) substitute "the Merchant Shipping (Boatmasters' Qualifications, Crew and Hours of Work) Regulations 2015" for "the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006"; and

(c) in the Table of Fees omit item 5(c) (a boatmaster's licence issued under the 1993 Regulations).

F8 S.I. 2006/2055, as amended by S.I. 2006/3225; there is another amending instrument, which is not relevant.

Interpretation: general

4.—(1) In these Regulations—

"the Act" means the Merchant Shipping Act 1995;

"the 2006 Regulations" means the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006;

"the Crew Regulations" means the Merchant Shipping (Local Passenger Vessels) (Crew) Regulations 2006;

"bareboat charter terms" has the meaning given in section 17(11) of the Act;

"boatmaster" has the meaning given in regulation 7;

"boatmaster's certificate" means a certificate issued—

(a) in the United Kingdom, by the Secretary of State under Part 2, or

(b) in an EEA State other than the United Kingdom, by a competent authority of that state,

in accordance with Directive 96/50/EC;

"boatmaster's licence" means a licence issued by the Secretary of State under Part 2;

"crew" includes every person, other than a master or a pilot, employed or engaged in any capacity on board a vessel;

"Directive 96/50/EC" means Council Directive 96/50/EC of 23rd July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community [F9];

"MCA" means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

"master" includes every person (except a pilot) having command or charge of a vessel;

"Merchant Shipping Notice" means a notice described as such and issued by the MCA, and a reference to a particular Merchant Shipping Notice includes a reference to a Merchant Shipping Notice amending or replacing that Notice which is stated to be considered by the Secretary of State to be relevant from time to time;

"mile" means a nautical mile of 1852 metres;

"passenger" means any person carried in a vessel other than—

(a) the master, a member of the crew or other person employed or engaged in any capacity on board the vessel on the business of the vessel,

(b) a person on board the vessel in pursuance of an 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 could have prevented or forestalled, and

(c) a child under one year old;

"passenger ship" means a vessel carrying more than 12 passengers;

"pilot" means a person not belonging to a vessel who has the conduct of the vessel;

"pleasure vessel" means—

(a) a vessel which at the time it is being used—

(i) is—

(aa) in the case of a vessel wholly owned, or operated on bareboat charter terms, by an individual or individuals, used only for the sport or pleasure of the owner or charterer or the immediate family or friends of the owner or charterer; or

(bb) in the case of a vessel owned, or operated on bareboat charter terms, by 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) is on a voyage which is one for which the owner or charterer 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, in the case of a vessel operated on bareboat charter terms, the charter fee payable; or

(b) a vessel which is wholly owned or operated on bareboat charter terms 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 (other than, in the case of a vessel operated on bareboat charter terms, the charter fee payable) 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 or charterer; 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;

"sea" does not include waters of category A, B, C or D (and "seagoing" is to be construed accordingly);

"specified by the Secretary of State" means specified by the Secretary of State in Merchant Shipping Notice MSN 1853;

"non-United Kingdom ship" has the meaning given in section 307 of the Act;

"United Kingdom ship" has the same meaning as "United Kingdom ship" in section 85(2) of the Act;

"voyage" includes an excursion.

(2) In these Regulations, a reference to waters of a specified category is a reference to—

(a) waters of that category as specified under or by virtue of the Merchant Shipping (Categorisation of Waters) Regulations 1992 [F10], and

(b) waters in the United Kingdom having the characteristics of waters of that category but not specified as such under or by virtue of those Regulations.

(a) (3) (a) In these Regulations, vessels are classified in accordance with Table 1—

Table 1

Classification of vessels

(1) Class of vessels	*(2) Description of operations and waters*
Class IV	Vessels engaged only on voyages in waters of category A, B, C or D.
Class V	Vessels engaged only on voyages in waters of category A, B or C.
Class VI	Vessels carrying not more than 250 passengers engaged in voyages to sea or in waters of category A, B, C or D, in favourable weather and during restricted periods, in the course of which the vessels are at no time more than 15 miles (exclusive of waters of category A, B, C or D) from their point of departure or more than 3 miles from land.

Class VI(A)	Vessels carrying not more than 50 passengers engaged on voyages over a distance of not more than 6 miles to or from isolated communities on the islands or coasts of the United Kingdom and in the course of which they are never more than 3 miles from land.
Class IX(A)	Vessels other than passenger ships and tankers which do not proceed to sea.
Class IX(A)(T)	Tankers which do not proceed to sea.

(b) In Table 1—

"favourable weather" means fine, clear, settled weather with a sea state such as to cause only moderate rolling or pitching;

"restricted period" means a time during the period commencing on 1st April and ending on 31st October which—

(i) in the case of a vessel fitted with navigation lights conforming to the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996 [F11], is between one hour before sunrise and one hour after sunset, and

(ii) in the case of any other vessel, is between sunrise and sunset.

(4) A reference to—

(a) a boatmaster's licence of any class (with or without a reference to an endorsement), or

(b) an endorsement of any class,

is a reference to a licence or endorsement of that class as specified in Table 2 in regulation 14.

(5) A reference to a boatmaster's certificate of any group is a reference to a certificate of that group as specified in Table 3 in regulation 28.

F9 OJ L235, 17.9.96, p.31. The directive was applied to the European Economic Area by a Decision of the EEA Joint Committee of 1st May 1997 (OJ No. L424, 4.9.97, p.70) and amended by Regulation (EC) 1882/2003 of the EU Parliament and Council of 29th September 2003 (OJ No. L284, 31.10.03, p.1) and Regulation (EC) 1137/2008 of the European Parliament and Council of 22 October 2008 (OJ No. L311, 21.11.08, p.1).

F10 S.I. 1992/2356, in which category A, B, C and D waters are defined by reference to MSN 1827(M) (which superseded MSN M1504).

F11 S.I. 1996/75, amended by S.I. 2004/302.

Extension of provisions to non-United Kingdom ships

5.—(1) The following provisions extend to the vessels and persons specified in paragraph (2) while they are engaged on voyages of a kind mentioned in regulation 7(3)—

(a) sections 47 to 50 and 52 of the Act (manning of vessels, production of certificates of qualification, etc), in so far as they have not already been so extended, and

(b) Parts 2, 5 and 6 of these Regulations.

(2) The vessels and persons are—

(a) non-United Kingdom ships of Classes IV, V, VI, VI(A), IX(A) and IX(A)(T), other than pleasure vessels, and