Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

EXITING THE EUROPEAN UNION
MERCHANT SHIPPING

MARITIME SECURITY

The Ship and Port Security (Amendment etc.) (EU Exit) Regulations 2018

Made - - - - 2018

Coming into force in accordance with regulation 1

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**1**).

In accordance with paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018 a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Part 1

Introduction

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Ship and Port Security (Amendment etc.) (EU Exit) Regulations 2018.

(2) These Regulations come into force on exit day.

(3) In these Regulations "the principal Regulation" means Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security.

(**1**) 2018 c. 16.

Part 2

Amendments of Regulation (EC) No 725/2004

Amendments of Article 1

2. In Article 1 of the principal Regulation (objectives)—

(a) in paragraph 1, for "introduce and implement Community measures aimed at enhancing" substitute "enhance", and

(b) in paragraph 2—

(i) omit "harmonised", and

(ii) omit "and Community monitoring".

Amendments of Article 2

3.—(1) Article 2 of the principal Regulation (definitions) is amended as follows.

(2) For paragraph 1 substitute—

"**1.** 'the special maritime security measures' means Chapter XI-2 of the Annex to the SOLAS Convention, as amended from time to time (but this is subject to the provision made by Article 10 about the application of those measures by virtue of Article 3).".

(3) Omit paragraph 2.

(4) For paragraph 3 substitute—

"**3.** 'Part A of the ISPS Code' means the Preamble and the mandatory requirements forming Part A of the International Code for the Security of Ships and of Port Facilities, as amended from time to time (but this is subject to the provision made by Article 10 about the application of Part A of the Code by virtue of Article 3).".

(5) For paragraph 4 substitute—

"**4.** 'Part B of the ISPS Code' means the guidelines forming Part B of the International Code for the Security of Ships and of Port Facilities, as amended from time to time.".

(6) Omit paragraph 6.

(7) Omit paragraph 7.

(8) In paragraph 8, for "of a Member State to a port facility outside that Member State," substitute "in the United Kingdom to a port facility outside the United Kingdom,".

(9) In paragraph 9—

(a) for "of a Member State" substitute "in the United Kingdom", and

(b) for "within that Member State," substitute "in the United Kingdom,".

Amendments of Article 3

4.—(1) Article 3 of the principal Regulation (joint measures and scope) is amended as follows.

(2) For the heading substitute "Scope".

(3) For paragraph 1 substitute—

"**1.** In respect of international shipping, the special maritime security measures and Part A of the ISPS Code are to have the force of law in the United Kingdom.".

(4) For paragraph 2 substitute—

"**2.**—(1) In respect of domestic shipping, the special maritime security measures and Part A of the ISPS Code are to have effect in relation to—

(a) Class A passenger ships,

(b) their companies, and

(c) the port facilities serving them,

as they have effect (in accordance with paragraph 1 and Article 10(1) and (5)) in relation to the corresponding international shipping matters.

(2) In subparagraph (1) 'the corresponding international shipping matters' means—

(a) the ships mentioned in paragraph 1.1 of regulation 2 of the special maritime security measures,

(b) their companies, and

(c) the port facilities mentioned in paragraph 1.2 of that regulation.".

(5) For paragraph 3 substitute—

"**3.**—(1) In respect of domestic shipping, the special maritime security measures and Part A of the ISPS Code are to have effect in relation to—

(a) Class B passenger ships which are certified to carry more than 250 passengers,

(b) tankers operating domestic services, and

(c) the companies of ships within point (a) or (b),

as they have effect (in accordance with paragraph 1 and Article 10(1) and (5)) in relation to the ships mentioned in paragraph 1.1 of regulation 2 of the special maritime security measures and their companies.

(2) But in the application of the special maritime security measures and Part A of the ISPS Code by virtue of subparagraph (1)—

(a) regulation 6 of the special maritime security measures (ship security alert system) does not have effect in relation to the ships and companies mentioned in subparagraph (1)(a) to (c);

(b) nothing in those measures and that Part requires a declaration of security to be completed or signed on behalf of the ships mentioned in subparagraph (1)(a) and (b),

and the special maritime security measures and Parts A and B of the ISPS Code are to be read with any modifications that are appropriate in accordance with points (a) and (b) of this subparagraph.

(3) In this paragraph 'tanker' means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature.".

(6) After paragraph 3 insert—

"**3A.**—(1) In this Article 'Class A passenger ship' and 'Class B passenger ship' mean, respectively, a Class A passenger ship and a Class B passenger ship within the meaning of Article 4 of Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (as that Directive had effect as last amended by Commission Directive 2010/36/EU(**2**)).

(2) For the purposes of subparagraph (1), Article 4 of that Directive is to be interpreted as requiring the Secretary of State to—

(**2**) OJ L 163, 25.6.2009, p. 1, amended by Commission Directive 2010/36/EU of 1st June 2010, OJ L 162, 29.6.2010, p.1.

(a) establish, and update when necessary, a list of sea areas under United Kingdom jurisdiction delimiting the zones for all year round operation and, where appropriate, restricted periodical operation of the classes of ships, using the criteria set out in paragraph 1 of that Article, and

(b) publish that list in its updated version in a Merchant Shipping Notice and in a public database available on the internet site of the Maritime and Coastguard Agency.

(3) If, immediately before exit day, Merchant Shipping Notice 1747(M) (which contains a list of sea areas established by the Secretary of State for the purposes of Article 4(2) of Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships(**3**)) is in force, that list is to have effect on and after exit day as if it had been established under subparagraph (2) (and may be updated accordingly).".

(7) For paragraph 4 substitute—

"**4.** In exercising any functions under, or in connection with the implementation of, the special maritime security measures or Part A of the ISPS Code (as they have effect in accordance with paragraphs 1 to 3) the Secretary of State must take fully into account the guidelines contained in Part B of the ISPS Code.".

(8) In paragraph 5, for the words from the beginning to "Code" substitute "The following paragraphs of Part B of the ISPS Code must be complied with".

(9) In paragraph 8, for "Member States" substitute "the Secretary of State".

(10) After paragraph 8 insert—

"**9.** In this Article 'company' means a Company as defined in Regulation IX-1 of the SOLAS Convention.".

Omission of Article 4

5. Omit Article 4 of the principal Regulation (communication of information).

Omission of Article 5

6. Omit Article 5 of the principal Regulation (alternative security agreements or equivalent security arrangements).

Amendments of Article 6

7.—(1) Article 6 of the principal Regulation (provision of security information prior to entry into a port of a Member State) is amended as follows.

(2) In the heading, omit "of a Member State".

(3) In paragraph 1—

(a) for the first sentence substitute "When a ship which is subject to the requirements of the special maritime security measures (by virtue of Article 3 of this Regulation or otherwise) announces its intention to enter a port in the United Kingdom, the Secretary of State must require that the information referred to in paragraph 2.1 of regulation 9 (ships intending to enter a port of another Contracting Government) of the special maritime security measures is provided.", and

(b) in the second sentence—

(i) for "said authority" substitute "Secretary of State", and

(**3**) OJ L 144, 15.5.1998, p.1.

(ii) for "that SOLAS regulation" substitute "regulation 9 of those special measures".

(4) In paragraph 3, for "special measures to enhance maritime security of the SOLAS Convention" substitute "special maritime security measures".

Amendments of Article 7

8.—(1) Article 7 of the principal Regulation (exemptions from the provision of security information prior to entry into a port) is amended as follows.

(2) In paragraph 1—

(a) for "Member States" substitute "The Secretary of State" and for "on their territory" substitute "in the United Kingdom",

(b) in point (a), for "competent authority for maritime security for the port concerned" substitute "Secretary of State", and

(c) in point (b)—

(i) for "special measures to enhance maritime security of the SOLAS Convention" substitute "special maritime security measures", and

(ii) for "competent authority for maritime security", in each place, substitute "Secretary of State".

(3) For paragraph 2 substitute—

"**2.** When an international scheduled service is operated between the United Kingdom and one or more EEA States the Secretary of State may, on the request of the company operating the service, grant an exemption to the service in accordance with the conditions laid down in paragraph 1.".

(4) In paragraph 3, for "Member States shall periodically" substitute "The Secretary of State must periodically", and for "Member States shall immediately" substitute "the Secretary of State must immediately".

(5) Omit paragraph 4.

(6) In paragraph 5—

(a) for "a Member State" substitute "the Secretary of State", and

(b) for "special measures to enhance maritime security of the SOLAS Convention" substitute "special maritime security measures".

Amendments of Article 8

9.—(1) Article 8 of the principal Regulation (security checks in Member State ports) is amended as follows.

(2) In the heading, for "Member State" substitute "United Kingdom".

(3) In paragraph 1—

(a) for "special measures to enhance maritime security of the SOLAS Convention" substitute "special maritime security measures", and

(b) for the words from "either" to the end substitute "by the Secretary of State".

(4) Omit paragraph 2.

Omission of Article 9

10. Omit Article 9 of the principal Regulation (implementation and conformity checking).