STATUTORY INSTRUMENTS

2009 No. 2021

MERCHANT SHIPPING

The Merchant Shipping (Marine Equipment) (Amendment) Regulations 2009

Made - - - -	*20th July 2009*
Laid before Parliament	*24th July 2009*
Coming into force - -	*28th August 2009*

The Secretary of State for Transport is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(**a**) in relation to measures relating to maritime transport(**b**).

He makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act and sections 85 and 86 of the Merchant Shipping Act 1995(**c**).

He has consulted the persons referred to in section 86(4) of the Merchant Shipping Act 1995 in so far as these Regulations are made in exercise of the powers conferred by sections 85 and 86 of that Act.

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Marine Equipment) (Amendment) Regulations 2009 and shall come into force on 28th August 2009.

Interpretation

2. In these Regulations "the 1999 Regulations" means the Merchant Shipping (Marine Equipment) Regulations 1999(**d**).

Amendment of the 1999 Regulations

3. In regulation 2(1) of the 1999 Regulations, insert at the end —

""United Kingdom ship" means a ship which is –

(i) a United Kingdom ship within the meaning of section 85(2) of the Merchant Shipping Act 1995;

(**a**) 1972 c. 68.
(**b**) S.I. 1994/757.
(**c**) 1995 c. 21. Relevant amendments were made to sections 85 and 86 by the Merchant Shipping and Maritime Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7, Part I. Sections 85 and 86 are applied to hovercraft by the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350) which refers to provisions which have been re-enacted as sections 85 and 86. There are amendments to that Order which are not relevant to these Regulations.
(**d**) S.I. 1999/1957, to which there are amendments not relevant to these Regulations.

(ii) a Government ship within the meaning of section 308(4) of that Act; or

(iii) a hovercraft registered under the Hovercraft Act 1968(**a**).".

4.—(1) Regulation 6 of the 1999 Regulations is amended as follows.

(2) After paragraph (1) insert —

"(1A) Paragraph (1) does not apply to equipment placed on board a ship which forms part of the Royal Fleet Auxiliary Service if, or to the extent that, under the relevant international convention the applicable international standards relating to that equipment do not apply in respect of that ship.".

(3) For paragraph (3) substitute —

"(3) Notwithstanding paragraph (1), equipment may be –

(a) placed on the market, supplied for use or exposed or offered for supply within the United Kingdom, and

(b) placed on board a ship, the relevant safety certificate of which was issued by or on behalf of a member State in accordance with the relevant international convention,

if the equipment meets the relevant transitional conditions specified in Merchant Shipping Notice MSN 1734.".

Signed by authority of the Secretary of State

Paul Clark
Parliamentary Under Secretary of State
Department for Transport

20th July 2009

(**a**) 1968 c. 59.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Merchant Shipping (Marine Equipment) Regulations 1999 (the 1999 Regulations) to give effect to Commission Directive 2008/67/EC of 30 June 2008 (O.J. L No. 171, 1.7.2008, p.16), amending Council Directive 96/98/EC on marine equipment (O.J. L No. 46, 17.2.1997, p.25). The 1999 Regulations implemented Directive 96/98/EC (which has been variously amended) which established a European regime for the application of common standards and type-approvals to equipment placed or installed on a ship.

Under regulation 6 of the 1999 Regulations:

(i) equipment placed on board United Kingdom ships and other ships of specified classes must comply with the applicable international standards of relevant international conventions (regulation 6(1)); and

(ii) compliance with the applicable international standards is to be assessed solely by reference to the testing standards specified in Merchant Shipping Notice MSN 1734 and to the EC conformity-assessment procedure set out in the 1999 Regulations (regulation 6(2)).

Regulation 3 of these Regulations inserts a definition of "United Kingdom ship" in the 1999 Regulations which clarifies explicitly that those Regulations apply to registered hovercraft.

These Regulations are made under powers contained in the Merchant Shipping Act 1995, except in so far as they cause the 1999 Regulations to apply to Government ships (which do not include ships forming part of Her Majesty's Navy). The power to apply the 1999 Regulations to Government ships is provided by section 2(2) of the European Communities Act 1972 and is reflected in the insertion of a definition of "United Kingdom ship" in the 1999 Regulations.

The ships of the Royal Fleet Auxiliary Service, which are owned by the Ministry of Defence, fall within the definition of Government ships. *Regulation 4(2)* of the present Regulations has the effect that the 1999 Regulations will not require equipment placed on board such ships to comply with applicable international standards if or to the extent that the relevant international standard does not apply in respect of such ships.

Regulation 4(3) of the present Regulations has the effect that where the Merchant Shipping Notice MSN 1734 specifies transitional conditions as applicable to equipment, then what would otherwise have been an applicable international standard does not have to be met.

Merchant Shipping Notice MSN 1734 is issued by the Maritime and Coastguard Agency on behalf of the Secretary of State, and references in the 1999 Regulations to that Notice include that document as amended or replaced from time to time. Copies of MSN 1734 can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG and can be found at the Maritime and Coastguard Agency's website, www.mcga.gov.uk.

An impact assessment (which considers the effect of the impact of the associated revision to MSN 1734) has been prepared and a copy placed in the library of each House of Parliament. Copies can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone number 012380 329100).

A transposition note has been prepared and copies may be obtained from the Maritime and Coastguard Agency at the above address.

The impact assessment and the transposition note are annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk).

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