
STATUTORY INSTRUMENTS

1993 No. 1213

**MERCHANT SHIPPING
SAFETY**

**The Merchant Shipping (Local Passenger Vessels)(Masters'
Licences and Hours, Manning and Training) Regulations 1993**

| | | |
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| <i>Made</i> | - - - - | <i>4th May 1993</i> |
| <i>Laid before Parliament</i> | | <i>10th May 1993</i> |
| <i>Coming into force</i> | | |
| <i>Except for regulations 4 and 14, on</i> | | <i>1st June 1993</i> |
| <i>Regulations 4 and 14, on</i> | | <i>1st October 1993</i> |

Whereas it appears to the Secretary of State for Transport that, as mentioned in section 43(2) of the Merchant Shipping Act 1970(1), it is necessary or expedient in the interests of safety to make the following Regulations in so far as they require a ship to carry any description of seamen;

And whereas, in so far as the following Regulations are made under provisions of the said Act, the Secretary of State has in pursuance of subsection (2) of section 99 of that Act consulted with organisations appearing to him to be representative as mentioned in that subsection and, in so far as they are made in pursuance of section 21 of the Merchant Shipping Act 1979(2), he has in pursuance of subsection (2) of section 22 of that Act consulted with persons he considers will be affected as mentioned in that subsection:

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 43, 49, 92 and 96(1) of the Merchant Shipping Act 1970 (3) and now vested in him(4) and by section 21(1) (a) and (3) to (6) of the Merchant Shipping Act 1979 and of all other powers enabling him in that behalf, hereby makes the following Regulations—

(1) 1970 c. 36.
(2) 1979 c. 39; subsections (1) and (3) of section 21 were amended by the Safety at Sea Act 1986 (c. 23), section 11(1), (2) and (4) (a) and (b); and subsection (6) was amended by the Criminal Justice Act 1982 (c. 48), section 49(3)(a) and (4).
(3) Section 43 was extended by S.I.1991/1366; sections 92 and 96 were amended by the Merchant Shipping Act 1988 (c. 12), Schedule 5
(4) S.I. 1970/1537.

PART I GENERAL

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Local Passenger Vessels) (Masters' Licences and Hours, Manning and Training) Regulations 1993 and shall come into force:

- (a) except for regulations 4 and 14, on 1st June 1993
- (b) regulations 4 and 14, on 1st October 1993.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“crewman” has the same meaning as “seaman” in the Merchant Shipping Act 1894⁽⁵⁾ (and accordingly includes every person (except masters and pilots) employed or engaged in any capacity on board a vessel);

“existing boatman’s licence” means a document bearing the title “Boatman’s licence” which—

- (a) is before the date on which these Regulations come into force issued by the Department of Transport in accordance with the provisions of Merchant Shipping Notice No.M. 1036 issued by the Department of Trade in August 1982 (as amended by Merchant Shipping Notice 1288 issued by the Department of Transport in September 1987); and
- (b) certifies that a person named in it has been tested by a Department of Transport surveyor and found to be qualified to be a person in charge of a passenger vessel in Classes IV, V, VI and VI(A);

“Merchant Shipping Notice” means a Notice issued by the Department of Transport and describing itself as a Merchant Shipping Notice;

“mile” means a nautical mile of 1852 metres;

“passenger” has the meaning given by section 26(1) of the Merchant Shipping (Safety Convention) Act 1949⁽⁶⁾ (and accordingly means any person carried in a vessel, except—

- (a) a 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 the 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 nor the charterer (if any) could have prevented or forestalled; and
- (c) a child under one year of age);

“sea” does not include any waters of Category A, B, C or D;

“vessel” has the same meaning as “ship” in the Merchant Shipping Act 1894 (and accordingly includes every description of vessel used in navigation not propelled by oars);

“voyage” includes an excursion.

(2) In these Regulations a reference to waters of a stated category is a reference to waters which are specified as of that category in Merchant Shipping Notice M 1504 or in any subsequent Merchant

(5) 1894 c. 60; the definition of “seaman” in section 742 was amended by the Merchant Shipping Act 1970, Schedule 3, paragraph 4.

(6) 1949 c. 43.

Shipping Notice amending or replacing it which specifies the date on which that subsequent notice takes effect and which the Secretary of State considers relevant from time to time.

Application

3.—(1) Part II of these Regulations applies to—

- (a) every vessel registered in the United Kingdom which is a passenger ship of Class IV, V, VI or VI(A) according to the classification set out in paragraph (4) of this regulation; and
- (b) every vessel registered elsewhere which is a passenger ship of one of the said Classes and carries passengers—
 - (i) between places in the United Kingdom; or
 - (ii) on a voyage which begins and ends at the same place in the United Kingdom and on which the ship calls at no place outside the United Kingdom.

(2) It is hereby directed that (to the extent that the provisions of sections 43 to 47 of the Merchant Shipping Act 1970 have not already been extended to vessels of the description mentioned below in this paragraph) the provisions of those sections and of Part II of these Regulations shall apply to—

- (a) every vessel of the following description; that is to say, every vessel which—
 - (i) is entitled to be registered under the Merchant Shipping Act 1894 but is not registered in the United Kingdom or elsewhere;
 - (ii) is a passenger ship of a Class mentioned in paragraph (1)(a) above; and
 - (iii) is wholly owned by persons each of whom either is resident in the United Kingdom or is a body corporate which has a principal place of business in the United Kingdom; and
- (b) the master and seamen employed in every such vessel.

(3) Parts III and IV of these Regulations apply to every United Kingdom vessel which is a passenger ship of a Class mentioned in paragraph (1)(a) above.

(4) The descriptions of passenger ships within the Classes mentioned in paragraph (1)(a) above are as follows

Class IV. Ships engaged only on voyages in Category A, B, C and D waters.

Class V. Ships engaged only voyages in Category A, B, and C waters.

Class VI. Ships engaged only on voyages with not more than 250 passengers on board, to sea, or in Category A, B, C and D waters, in all cases in favourable weather and during restricted periods, in the course of which the ships are at no time more than 15 miles, exclusive of any Category A, B, C or D waters, from their point of departure nor more than 3 miles from land.

Class VI(A). Ships carrying not more than 50 passengers for a distance of not more than 6 miles on voyages to or from isolated communities on the islands or coast of the United Kingdom and which do not proceed for a distance of more than 3 miles from land; subject to any conditions which the Secretary of State may impose.

(5) In paragraphs (1) to (4) above—

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

“passenger ship” means a ship carrying more than 12 passengers;

“restricted period” means a period falling within the following limits—

- (a) from the 1st April to 31st October, both dates inclusive; and
- (b) between one hour before sunrise and one hour after sunset in the case of a vessel fitted with navigation lights conforming to the Merchant Shipping (Distress Signals and

Prevention of Collisions) Regulations 1989(7), and between sunrise and sunset in the case of any other vessel;

“United Kingdom vessel” has the meaning given to “United Kingdom ship” by section 21(2) of the Merchant Shipping Act 1979.

(6) The requirements of Part II of these Regulations have effect subject to any exemptions given under section 44 of the Merchant Shipping Act 1970.

PART II

MASTERS' LICENCES

Masters to be qualified

4.—(1) A vessel to which this Part applies shall carry in command of the vessel a person who is qualified for the purpose in accordance with paragraph (2) below.

(2) For the purposes of paragraph (1) above a person is qualified if—

- (a) he is the holder of a certificate (in these Regulations referred to as a “licence”) issued by the Secretary of State under this Part stating that he is qualified to have command of such a vessel;
- (b) the licence is in force and is of a grade appropriate in respect both of the waters in which the vessel is being navigated and the number of passengers carried; and
- (c) the vessel is in an area specified in the licence as one in which a vessel may be navigated under the command of the holder.

Licence applications, standards and conditions

5.—(1) An application for a licence under this Part shall be made in such form as the Secretary of State may from time to time specify.

(2) Subject to paragraphs (3) and (4) below—

- (a) the standards of competence to be attained and the conditions (including conditions as to medical fitness) to be satisfied by a person in order for a licence to be issued to him under this Part;
- (b) any exceptions applicable with respect to any such standards or conditions;
- (c) the manner in which the attainment of any such standards or the satisfaction of any such conditions is to be evidenced; and
- (d) the conduct of any examinations and the conditions of admission to them;

shall be such as may from time to time be specified by the Secretary of State in a Merchant Shipping Notice, either in relation to licences under this Part in general or to licences under this Part of a particular grade as may be so specified.

(3) Notwithstanding that an applicant for a licence under this Part complies with the standards and satisfies the conditions specified by the Secretary of State, the Secretary of State shall not issue such a licence to the applicant unless he is satisfied, having regard to all the relevant circumstances, that the applicant is a fit person to be the holder of such a licence.

(4) The standards of competence to be attained and the conditions to be satisfied by the holder of an existing boatman’s licence in order for a licence to be issued to him under this Part shall be such

(7) S.I. 1989/1798, to which there is an amendment not relevant to these Regulations.

standards and conditions as were to be satisfied by him in order for the existing boatman’s licence to be issued to him.

Accordingly, the Secretary of State shall on the application of the holder of an existing boatman’s licence issue to him a licence under this Part; and the licence shall—

- (a) be of the grade, or of the higher or highest of the grades, which is appropriate in respect of—
 - (i) a vessel when being navigated in waters in the area or areas stated in the existing boatman’s licence as the area or areas of operation; and
 - (ii) the greatest number of passengers which in the period of 12 months before the coming into force of these Regulations was carried in a vessel navigated in that area or in each of those areas respectively (as the case may be) under the command of the holder of the existing boatman’s licence; and
- (b) state as the area or areas in which a vessel may be navigated under the command of the holder the area or areas stated in the existing boatman’s licence as the area or areas of operation.

Grades and area restrictions of licences

6.—(1) A licence under this Part shall bear the title “Boatmaster’s Licence” and shall be of one of the following grades, that is to say—

- Boatmaster’s Licence, Grade 1
- Boatmaster’s Licence, Grade 2
- Boatmaster’s Licence, Grade 3;

and the grade of the licence shall be stated in the licence.

(2) The grade of licence appropriate in respect of a vessel when being navigated in waters specified in column (1) of the following Table and carrying a number of passengers specified in relation to those waters in column (2) of the Table shall be either that specified in relation to those waters and that number of passengers in column (3) of the Table or (where the grade so specified is 2 or 3) a higher grade than that so specified:

| (1) Waters | (2) Number of passengers | (3) Minimum Grade of Licence |
|---------------|-----------------------------|---------------------------------|
| Category A | 13 or more | 3 |
| Category B | 13 to 100 | 3 |
| | over 100 | 2 |
| Category C | 13 or more | 2 |
| Category D | 13 to 100 | 2 |
| | over 100 | 1 |
| Sea | 13 to 100 | 2 |
| | over 100 | 1 |

(3) A licence of any grade issued under this Part shall be subject to such restriction as the Secretary of State shall determine as to the area or areas in which a vessel may be navigated under the command of the holder; and every such restriction shall be stated in the licence.

Continuing validity

7.—(1) Subject to paragraph (2) below, a licence under this Part shall remain valid only so long as the holder complies with the standards of competence and the conditions (including conditions as to medical fitness) specified as mentioned in regulation 5(2) above.

(2) A licence issued pursuant to regulation 5(4) above shall remain valid only so long as the holder complies with such standards and conditions as were to be satisfied by him in order for the existing boatman’s licence to be issued to him and with conditions as to medical fitness specified as mentioned in regulation 5(2) above.

Record and surrender of licences

8.—(1) The Secretary of State shall make and, during the period of the licence, retain a copy of every licence issued under this Part.

(2) A record of—

- (a) every licence issued under this Part;
- (b) every existing boatman’s licence treated as equivalent to a licence under this Part; and
- (c) every suspension, cancellation or alteration of and any other matter affecting such a licence or existing boatman’s licence;

shall be kept, in such manner as the Secretary of State may require, by the Registrar General of Shipping and Seamen or by such other person as the Secretary of State may direct.

(3) Where the Secretary of State issues to the holder of a licence under this Part a licence under this Part of a higher grade than that which he already holds, the holder shall surrender the first-mentioned licence to the Secretary of State, or to such person as the Secretary of State may direct, for cancellation.

Loss of licences

9.—(1) If the holder of a licence under this Part loses the licence, then—

- (a) if he satisfies the Secretary of State that the loss occurred without fault on his part, the Secretary of State shall cause a copy of the licence to be issued to him;
- (b) if he does not so satisfy the Secretary of State, the Secretary of State may on receipt of any fee payable cause a copy of the licence to be issued to him.

(2) Any copy issued under paragraph (1) above shall be certified as a copy by the Registrar General of Shipping and Seamen or, as the case may be, such other person as the Secretary of State may have directed pursuant to regulation 8(2) above.

PART III

MASTERS' HOURS OF WORK

Interpretation for Part III

10.—(1) In this Part—

“employer”, in relation to a master who has command of a vessel in the course of his employment, means the person who employs that master in that employment;

“master” has the meaning given by regulation 11 below;

“working day”, in relation to any person to whom this Part applies means—

- (a) any period during which he is on duty and which does not fall to be aggregated with any other such period by virtue of paragraph (b) of this definition; and
 - (b) where a period during which he is on duty is not followed by an interval for rest of not less than 8 hours, the aggregate of that period and each successive period until there is such an interval as aforesaid, together with any interval or intervals between periods so aggregated.
- (2) For the purposes of this Part a director of a company shall be deemed to be employed by it.
- (3) In this Part references to a person being on duty are references—
- (a) in the case of a master who has command of a vessel in the course of his employment, to his being on duty (whether for the purpose of having the command of a vessel to which this Part applies or for other purposes) in the employment of the person who employs him in that employment or in any other employment under that person; and
 - (b) in the case of a master who has command of a vessel for the purposes of a trade or business carried on by him, to his having command of a vessel to which this Part applies for the purposes of that trade or business or being otherwise engaged in work for the purposes of that trade or business, being work in connection with such a vessel or the passengers carried by it.

Application of Part III

11. This Part applies to any such person as follows (in this Part referred to as “a master”), that is to say—

- (a) a person who has command of a vessel to which this Part applies in the course of his employment and;
- (b) a person who has command of such a vessel for the purposes of a trade or business carried on by him;

and in this Part references to a person’s having command are references to his having command as aforesaid.

The working hours code

12.—(1) A master shall so far as is reasonably practicable ensure that he is properly rested when first going on duty on any working day.

(2) Subject to paragraph (6) below, the working day of a master shall not exceed 16 hours.

(3) Subject to paragraph (6) below, a master shall not on any working day con a vessel or vessels to which this Part applies for periods amounting in the aggregate to more than 10 hours.

(4) Subject to paragraph (6) below, if on any working day a master has been on duty—

- (a) for a period of 6 hours and the end of that period does not mark the end of the working day; or
- (b) for periods amounting in the aggregate to 6 hours and there has not been between any of those periods an interval of not less than 30 minutes in which the master was able to obtain rest and refreshment and the end of the last of those periods does not mark the end of the working day;

there shall be such an interval as aforesaid—

- (i) as respects the period mentioned in sub-paragraph (a) above, at the end of that period; or
- (ii) in the case of the periods mentioned in sub-paragraph (b) above, at the end of the last of those periods.

(5) Subject to paragraph (6) below there shall be, between any two successive working days of a master, an interval for rest which shall not be of less than 8 hours; and, in the case of a master who has command of a vessel in the course of his employment, a period of time shall not be treated as not being an interval for rest by reason only that he may be called upon to report for duty if required.

(6) If the Secretary of State considers that it would be appropriate to grant an exemption from all or any of the requirements of paragraphs (2) to (5) above, he may on such terms (if any) as he may specify grant such an exemption; and, subject to his giving reasonable notice, the Secretary of State may alter or cancel an exemption so granted.

Contravention of regulation 12

13.—(1) If any of the requirements of regulation 12 above is contravened in the case of any master—

- (a) that master; and
- (b) any other person (being that master's employer or a person to whose orders that master was subject) who caused or permitted the contravention;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale:

Provided that a person shall not be liable to be convicted under this regulation if he proves to the court—

- (i) that the contravention was due to an unavoidable delay in the completion of a voyage arising out of circumstances which he could not reasonably have foreseen; or
- (ii) in the case of a person charged under paragraph (b) above that the contravention was due to the fact that the master had for any particular period or periods conned a vessel or vessels or been on duty otherwise than in the employment of the person charged or, as the case may be, otherwise than in the employment in which he was subject to the orders of the person charged, and that the person charged was not, and could not reasonably have become, aware of that fact.

PART IV

MANNING AND TRAINING

Additional crew

14.—(1) It shall be the duty of an owner of a vessel to which this regulation applies to notify in writing to the Secretary of State—

- (a) the geographical limits within which he proposes that the vessel be navigated;
- (b) the number of crewmen in addition to the master whom the owner considers it appropriate that the vessel should carry when being navigated within the geographical limits so notified; and
- (c) whether the owner considers it appropriate that, when the vessel is being so navigated, a crewman should be the holder of a licence of any grade under Part II of these Regulations.

(2) The Secretary of State may approve—

- (a) the number of crewmen notified in accordance with paragraph (1)(b) above; and
- (b) that a crewman is to be or that no crewman need be the holder of a licence, in accordance with a notification under paragraph (1)(c) above.

- (3) A vessel to which this regulation applies shall not proceed on a voyage or excursion unless—
- (a) the Secretary of State has been notified in accordance with paragraph (1) above;
 - (b) the Secretary of State has given an approval in accordance with paragraph (2) above; and
 - (c) the manning of the vessel is in accordance with the approval given under paragraph (2) above.
- (4) Any approval given under this regulation shall be in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.
- (5) If any provision in paragraph (3) above is contravened the owner and master shall each be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) It shall be a defence to a charge under this regulation to prove that the person charged took all reasonable steps to avoid commission of the offence.

Training in emergency procedures

- 15.**—(1) The owner of a vessel to which this regulation applies shall—
- (a) establish procedures which each of—
 - (i) the person having command of the vessel; and
 - (ii) any other person or persons employed or engaged in any capacity on board the vessel; is to observe in the event of an emergency affecting the vessel and, in particular, the action to be taken by persons other than the person having command of the vessel for the purpose of assisting passengers; and
 - (b) ensure that each of those persons has received on-board training in the procedures to be observed by that person in such an event.
- (2) A person who contravenes a requirement of paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Power to detain

16. In any case where there is a contravention of the requirements of this Part, the vessel in relation to which the contravention takes place shall be liable to be detained, and section 692 (1) to (3) of the Merchant Shipping Act 1894⁽⁸⁾ (which provides for enforcing the detention of a ship) shall have effect in relation to the vessel, subject to the modification that, for the words “this Act” wherever they appear, there shall be substituted “Part IV of the Merchant Shipping (Local Passenger Vessels) (Masters' Licences and Hours, Manning and Training) Regulation 1993”.

Signed by authority of the Secretary of State for Transport

4th May 1993

Caithness
Minister of State,
Department of Transport

⁽⁸⁾ Section 692 was amended by the Merchant Shipping Act 1979, Schedule VI.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose requirements in relation to local passenger vessels (that is, broadly, United Kingdom ships which carry more than 12 passengers, and operate in only Category A, B, C or D waters or, if at sea, not more than 3 miles from land).

The requirements concern the licensing of masters of such vessels (Part II of the Regulations), the hours of work of such masters (Part III), and the manning of such vessels and the training of the crew in emergency procedures (Part IV).

Part I of the Regulations consists of regulations 1 to 3, which make provision of a general nature.

Part II (Masters' Licences), which also applies to certain passenger vessels registered elsewhere than in the United Kingdom, consists of regulations 4 to 9. Regulation 4 requires a master to be qualified by holding a certificate (referred to as a "licence") granted by the Secretary of State.

Regulation 5 provides for the method of applying for a licence, and for qualifying standards and conditions. It also requires the Secretary of State to issue a licence under Part II on application by the holder of a boatman's licence issued by the Department of Transport under existing non-statutory arrangements. Regulation 6 provides for a licence to be of one of three grades, and for the imposing of restrictions as to areas of operation. Regulation 7 makes the validity of a licence subject to continuing compliance with the qualifying standards and conditions.

Regulations 8 and 9 provide for administrative matters, and for the issue of copies of licences which have been lost.

Part III (Masters' Hours) consists of regulations 10 to 13. Regulation 10 provides for the interpretation of Part III, and regulation 11 for the persons to whom Part III is to apply.

Regulation 12 establishes a code of working hours. The working day is not to exceed 16 hours, and there must be at least 8 hours between one working day and the next. The time spent conning vessels is not to exceed 10 hours within any working day; and a master must not be on duty for more than 6 hours together (including any breaks of less than 30 minutes) without having a break of 30 minutes. Regulation 13 makes contravention of the code an offence.

Part IV (Manning and Training) consists of regulations 14 to 16. Regulation 14 requires owners of vessels to notify the Secretary of State of the number of crew additional to the master needed for the geographical limits within which the vessel proposes to ply, and whether one such additional crew is to be licensed. The Secretary of State is empowered to approve the arrangements, and it is an offence for the vessel to go to sea without such an approval. Regulation 15 provides for the establishing of emergency procedures and for the master and crew to have received on-board training in such procedures and makes contravention of these requirements an offence on the part of the owner. Regulation 16 enables the vessel to be detained if there is a contravention of Part IV.

Other relevant offences under the Merchant Shipping Act 1970 are—

| Offence | Maximum fine |
|---|-------------------------------|
| (a) (a) making a false statement to obtain a certificate or other document (section 43(5)): | £5,000 on summary conviction; |

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- (b) (b) ship going to sea or plying £5,000 on summary conviction; no maximum
undermanned (sections 45 and 96(1)): on conviction on indictment.
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Under section 44 of that Act the Secretary of State is empowered to exempt vessels from the manning requirements.

Merchant Shipping Notices are obtainable from the Marine Library, Department of Transport, Spring House, 105 Commercial Road, Southampton SO1 0ZD, or from any Department of Transport Marine Office.