

2001 No. 9

MERCHANT SHIPPING

SAFETY

**The Fishing Vessels (Code of Practice for the Safety of
Small Fishing Vessels) Regulations 2001**

Made - - - - - *4th January 2001*

Laid before Parliament *5th January 2001*

Coming into force - - *1st April 2001*

The Secretary of State for the Environment, Transport and the Regions, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995(a), in exercise of the powers conferred by sections 85(1)(a), (3), (5) to (7) and 86(1) and (2) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001 and shall come into force on 1st April 2001.

Interpretation

2. In these Regulations—

“certificate of registry” means the certificate of registry issued under the Merchant Shipping (Registration of Ships) Regulations 1993(b);

“Code of Practice” means the “Code of Practice for the Safety of Small Fishing Vessels” published by the MCA in Merchant Shipping Notice No. MSN 1756(F), and includes any document amending it which the Secretary of State, after due consultation with the fishing industry, considers relevant from time to time and specifies in a Merchant Shipping Notice;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(c) as adjusted by the Protocol signed at Brussels on 17th March 1993(d);

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“length” means the measurement recorded as the registered length in the vessel’s certificate of registry;

“MCA” means the Maritime and Coastguard Agency, an executive agency of the Department of the Environment, Transport and the Regions;

“Merchant Shipping Notice” means a notice described as such and issued by the MCA;

(a) 1995 c. 21; there are amendments to sections 85 and 86 which are not relevant to these Regulations.

(b) S.I. 1993/3138, to which there are amendments not relevant to these Regulations.

(c) Cmnd. 2073.

(d) Cmnd. 2183.

“United Kingdom fishing vessel” means a fishing vessel registered in the United Kingdom under Part II of the Merchant Shipping Act 1995; and

“voyage” includes an excursion, and shall be taken to commence when a vessel leaves its berth or anchorage at a port.

Application

3. These Regulations apply to United Kingdom fishing vessels of less than 12 metres in length.

Amendment of the Fishing Vessels (Safety Provisions) Rules 1975

4. The Fishing Vessels (Safety Provisions) Rules 1975(a) shall be amended as follows—

- (a) at the end of Rule 1(2)(a) there shall be added:
“other than fishing vessels of less than 12 metres in length”;
- (b) Rules 81 and 106 shall be omitted; and
- (c) in the heading to Rule 105 and in paragraph (1) of that Rule, for “9 metres” there shall be substituted “12 metres”.

Amendment of the Fishing Vessels (Life-Saving Appliances) Regulations 1988

5. The Fishing Vessels (Life-Saving Appliances) Regulations 1988(b) shall be amended as follows—

- (a) in regulation 2(4), for “of less than 24 metres in length” there shall be substituted:
“of 12 metres in length and over but less than 24 metres in length”; and
- (b) regulations 4 and 8(2) and Schedules 1 and 2 shall be omitted.

Prohibition on proceeding on any voyage unless Code of Practice complied with

6. A vessel shall not proceed on any voyage unless the vessel complies with the requirements of the Code of Practice.

Equivalent provisions

7.—(1) Where the Code of Practice requires that a particular fitting, material, appliance or apparatus or type thereof shall be fitted or carried in a vessel, or that any particular provision shall be made, the Secretary of State shall permit any other fitting, material, appliance or apparatus or type thereof to be fitted or carried or any other provision to be made in that vessel if he is satisfied by trial thereof or otherwise that such other fitting, material, appliance or apparatus or type thereof or provision is at least as effective as that required by the Code of Practice.

(2) For the purposes of the Code of Practice, the results of a verification or test shall be accepted if the verification or test is carried out—

- (a) in accordance with the Code of Practice or with a Code of Practice, specification or technical description of an EEA State other than the United Kingdom offering equivalent levels of safety, suitability and fitness for the purpose; and
- (b) by a body or laboratory of an EEA State other than the United Kingdom offering suitable and satisfactory guarantees of technical and professional competence and independence.

Penalties

8.—(1) If a vessel proceeds or attempts to proceed on any voyage, in contravention of regulation 6, then the owner and the skipper shall each be guilty of an offence, punishable only on summary conviction by a maximum fine not exceeding level 5 on the standard scale.

(2) It shall be a defence for a person charged under these Regulations to show that he took all reasonable precautions to avoid the commission of the offence.

(a) S.I. 1975/330, the relevant amending instrument is S.I. 1998/928; those Rules now have effect under sections 90, 121 and 122 of, and paragraph 7 of Schedule 14 to, the Merchant Shipping Act 1995 (c. 21).
(b) S.I. 1988/38, amended by S.I. 1998/927 and 1999/2998.

Detention

9. In any case where a vessel does not comply with the requirements of regulation 6, the vessel shall be liable to be detained and section 284 of the Merchant Shipping Act 1995^(a) (which relates to 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 “the Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001”.

Signed by authority of the Secretary of State

4th January 2001

Keith Hill
Parliamentary Under-Secretary of State
Department of the Environment, Transport and the Regions

^(a) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997, Schedule 1, paragraph 5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for fishing vessels of less than 12 metres in length to comply with the requirements of the “Code of Practice for the Safety of Small Fishing Vessels” published by the MCA. They also provide for the amendment of the Fishing Vessels (Safety Provisions) Rules 1975 and the Fishing Vessels (Life-Saving Appliances) Regulations 1988 so that those instruments no longer apply to fishing vessels of less than 12 metres in length (regulations 4–6).

The Regulations provide that if a vessel proceeds or attempts to proceed on any voyage without complying with the Code of Practice, that is an offence on the part of the owner and the skipper (regulation 8), and the vessel is liable to be detained (regulation 9).

A Regulatory Impact Assessment has been produced and a copy placed in the library of both Houses of Parliament. Copies may be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone number 023 8032 9297).

Copies of the Code of Practice referred to in these Regulations may be obtained from the Maritime and Coastguard Agency at the above address.

These Regulations were notified in draft to the European Commission in accordance with Directive 98/34/EC of 22nd June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21/7/1998, p. 37–48).

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