



Maritime &  
Coastguard  
Agency

Consultation Document:

REVIEW OF MERCHANT SHIPPING  
(ENTRY INTO DANGEROUS SPACES)  
REGULATIONS 1988

May 2021

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## Section 1: Overview of this consultation

### Aim

- 1.1. This consultation seeks your views on the proposed Merchant Shipping and Fishing Vessels (Entry into Enclosed Spaces) Regulations 2021 (see Annex A) (the “proposed Regulations”) which would replace the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (see Annex C) (“The 1988 Regulations”). The proposed Regulations incorporate SOLAS amendments (Annexes B(1) and (B2)), as outlined in Section 2 of this consultation document.

### Views sought

- 1.2. Your views are sought on the implementation of SOLAS amendments as set out in MSC 350(92) and MSC 380(94) into UK legislation, to vessels not currently regulated by SOLAS and extending to Fishing Vessels.
- 1.3. A full list of consultation questions is contained in Section 5 of this consultation.

### Deadline for responses

- 1.4. Responses are welcomed from 24/05/2021 until 19/07/2021

## Section 2: Areas for consideration

### Background

- 2.1 Entry into enclosed spaces is sometimes necessary but a dangerous work activity on board ships. As defined within the Code of Safe Working Practices for Merchant Seafarers (COSWP), Chapter 15; “Any enclosed space deprived of regular and constant ventilation may become a ‘dangerous space’. The 1988 Regulations (Annex C) define a dangerous space as; ‘Any enclosed or confined space in which it is foreseeable that the atmosphere may at some stage contain toxic or flammable gases or vapours, or be deficient in oxygen, to the extent that it may endanger the life or health of any person entering that space.’
- 2.1.1 The 1988 Regulations apply to UK Ships and non-UK Ships when in UK waters but do not apply to fishing vessels, pleasure craft, offshore installations within 500m of their workstation or ships in which there is for the time being no master, crew or watchman.
- 2.1.2 The 1988 Regulations include provisions concerning:
- Reg 4 securing access to dangerous spaces
  - Reg 5 maintaining onboard procedures for entering dangerous spaces
  - Reg 6 carrying out drills on tankers over 500GT and on all ships 1000GT or over and
  - Reg 8 the carriage and maintenance of atmosphere testing equipment on board.
- 2.1.3 The implementation of the SOLAS amendments provides an opportunity to address the concerns of industry, Marine Accident Investigation Branch (MAIB), Marine Accident Investigators’ International Forum (MAIIF) and the MCA, on the number of fatalities and incidents which have occurred.
- 2.1.4 The MCA seeks to implement the requirements of the following SOLAS amendments, as set out in MSC 350(92) and MSC 380(94);
- **Chapter III/19 on emergency drills for entry into enclosed spaces**
  - **Chapter XI/1.7 on carriage of atmosphere testing equipment**

The Merchant Shipping (Life Saving Appliances and Arrangements) Regulations 2020 (Regulation 8, drills) implement Regulation III/19 for SOLAS ships. The proposed Regulations implement the SOLAS amendments to Chapter XI/1 on carriage of atmosphere testing equipment in new regulations to replace the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988, to ensure that the UK is meeting its international obligations.

In so doing, the opportunity exists to address the safety concerns relating to entry into enclosed spaces accidents, evidenced by the fatality statistics and deficiencies found during Port State Control (PSC) inspections. This consultation therefore also considers extending the Regulations to incorporate all applicable Merchant Ships under 500 GT which are not subject to SOLAS Regulation III/19 on drills and to the Merchant Shipping (Life Saving Appliances and Arrangements) Regulations 2020, and fishing vessels, which are not covered by either SOLAS III/19 or XI/1 or the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988. Fatalities have occurred on fishing vessels as noted at 2.1.6

- 2.1.5 The Marine Accident Investigator's International Forum (MAIIF) submitted a paper to the IMO sub-committee in 2009, outlining research / statistics which advised that since the IMO resolution A.864(20) on Recommendations for entering enclosed spaces aboard ship was adopted in 1997, there had been at least 101 enclosed space incidents internationally resulting in 93 deaths and 96 injuries, up to that date. It should be highlighted, that 16 out of the 93 deaths related to vessels involved in the fishing industry, for which there is currently no regulation.
- 2.1.6 A Freedom of Information request to the MAIB (May 2019), requested the number of fatalities since 2009 relating to enclosed space / confined space incidents. This established that there had been six fatalities, on both UK vessels and non-UK flagged vessels in a UK port, with one of those fatalities onboard a UK fishing vessel.
- 2.1.7 This evidence shows that there is a risk of multiple fatalities, caused by crew members who find a casualty in an enclosed space entering that space to try to affect a rescue without taking the proper precautions and falling victim to the same hazard. These fatalities could perhaps be avoided, if those attempting to rescue colleagues from an enclosed space were better trained and aware of the need to follow best practice and the use of atmosphere testing equipment.
- 2.1.8 The introduction of 2 monthly emergency drills (6 per year) would lessen the likelihood of multiple casualties with seafarers rushing into enclosed spaces to rescue colleagues without taking proper precautions.
- 2.1.9 The carriage of atmosphere testing equipment meeting international standards would ensure that seafarers were able to adequately test any enclosed space before entry.

## Proposed Changes

- 2.2 Changes would see applicable (UK and Non-UK) Merchant Ships regulated according to SOLAS which would introduce;
  - **Chapter III/19 on emergency drills for entry into enclosed spaces**

*"Regulation 7 (2) Drills must (a) be recorded in the Official Log-book, (b) be held on board ship at intervals not exceeding two months and (c) be planned and conducted*

*in a safe manner having regard to international recommendations; (d) include (i) the checking and use of (aa) personal protective equipment required for entry; (bb) communication equipment and procedures (cc) the equipment prescribed by regulation 8 (testing equipment); (dd) rescue equipment and procedures; and (ii) instructions in first aid and resuscitation techniques”.*

- **Chapter XI/1.7 on carriage of atmosphere testing equipment**

*“Regulation 8 (1) In respect of each ship on board which there is an accessible enclosed space, the ship owner and the employer must each ensure that- (a) the ship carries appropriate portable atmosphere testing equipment which complies with para (2); (b) the equipment referred to in sub-paragraph (a) is- (i) maintained in good working order; and (ii) where applicable, regularly serviced and calibrated according to the manufacturer’s recommendations.*

*(2) The equipment referred to in para (1)(a) must be capable of measuring any concentration within any enclosed space of oxygen, flammable gases or vapours, hydrogen sulphide or carbon monoxide before any seafarer enters that space”.*

2.2.1 It is also proposed to extend the requirements to vessels to which SOLAS does not apply but with exemption provisions, as set out in regulation 10 of the proposed Regulations (Annex A).

2.2.2 The regulation will drop the term ‘dangerous spaces’ and use ‘enclosed spaces’, as defined within regulation 3 of the proposed Regulations (Annex A).

2.2.3 The proposed enclosed space definition is in line with SOLAS requirements as originally defined within IMO A.1050(27). The IMO definition is:

*“enclosed space” means a space which has any of the following characteristics:*

- (a) limited openings for entry and exit;*
- (b) inadequate ventilation; and*
- (c) is not designed for continuous worker occupancy,*

2.2.4 However, we have not included the examples of enclosed spaces which follow the above definition as part of the proposed definition. In addition, we have amended “and” at the end of clause (b) of the definition and used the word “or”.

2.2.5 The introductory words “a space which has any of the following characteristics” plainly means that a space is “enclosed” if any one of the criteria in sub-paragraphs (a) to (c) is satisfied. So, it was evidently intended that sub-paragraphs (a) to (c) should be considered as separate characteristics, not as characteristics which must all be present for a space to be considered an enclosed space.

2.2.6 The word “and” at the end of sub-paragraph (b) is arguably inconsistent with the introductory words “any of”.

2.2.7 We consider that the three criteria (a) to (c) are very much interlinked and any of the above criteria may result in a space becoming hazardous.

The definition in the proposed Regulations is;

*“enclosed space” means a space which has any of the following characteristics:*

- (a) limited openings for entry and exit;*
- (b) inadequate ventilation; or*
- (c) is not designed for continuous worker occupancy,*

We invite comments on the proposed definition under Section 5. Q8.

## Summary of Options and Recommendations

2.3 We have considered Options 1 – 3;

For each option there are the following potential costs to be considered, but not all costs are applicable to every option.

### Direct Costs

- Securing entry to enclosed spaces
- Emergency Drills and entry into Official Logbooks
- Changes to onboard Safety Procedures
- Costs of the provision of testing equipment

### Indirect Costs

- Training course and attendance
- Calibration of atmosphere testing equipment
- Familiarisation costs

### Government Costs

- Costs associated with increased inspections on non-UK (Port State Control) and UK ships (MLC Survey & Inspection – H&S) in UK waters
- Awareness and notification of changes to surveyors

2.3.1 **Option 1:** Implementation of SOLAS amendments MSC 350(92) and MSC 380(94), other than to vessels to which the Merchant Shipping (Life Saving Appliances) Regulations 2020 apply.

Under the 1988 Regulations,

- The requirement for drills does not apply to non-tankers between 500GT and 1000GT,
- The requirement for carrying an oxygen meter and other testing equipment (atmosphere testing equipment) applies where entry into a dangerous space may be necessary.

2.3.2 There will be some vessels not covered by the 1988 Regulations which will now be subject to the proposed Regulations. However, the SOLAS requirements reflect existing best practice so some vessels will be complying voluntarily.

2.3.3 Under Option 1, a percentage of UK registered vessels not currently subject to the Merchant Shipping (Life Saving Appliances) Regulations 2020 (Regulation 8, drills) implementing Regulation III/19 for SOLAS ships or the 1988 Regulations, may not yet

be voluntarily complying with the requirements and could be affected by the proposed Regulations.

- 2.3.4 We have collated statistics from the Registry of Shipping and Seamen (RSS) and the UK Ship Register (UKSR) and estimate that **58** UK registered vessels 500GT – 1000GT could be affected, but statistics are limited on establishing whether vessels are operating internationally and therefore are subject to the SOLAS Regulations. Vessels which operate on domestic routes might meet exemption criteria and therefore the potential impact could be reduced.

Estimated cost to industry = £80k

- 2.3.5 This cost is expected to be an over-estimate. The SOLAS requirements apply internationally and have been enforced through the EU, with Port State Control (PSC) inspection measures since 2015. The Code of Safe Working Practices for Merchant Seafarers (COSWP) also reflects the SOLAS amendments. All UK Flagged merchant vessels are required to carry COSWP on board and vessels within Option 1 are generally expected to be applying, this already as best practice.

- 2.3.6 **Option 2:** Implementation of Option 1 and incorporating non-SOLAS Merchant Ships under 500GT.

- 2.3.7 In addition to the changes under Option 1, Option 2 would extend the provisions to all applicable merchant ships including those under 500GT. However, exemptions are proposed for types of ship or individual ships under 500GT on domestic voyages, to limit the impact of the proposed amendments on small businesses where compliance would bring no safety benefits – for example, where a safety management system ensures that no seafarer would have to enter an enclosed space while the vessel was a sea, and specialist shore-side companies are engaged to carry out any work requiring enclosed space entry.

- 2.3.8 Statistics from RSS and UKSR on vessel numbers falling outside of SOLAS and the 1988 Regulations and adjusted to take consideration of their mode of operation indicates **1834** vessels in addition to option 1 therefore = **1892** merchant ships under 500GT and between 500GT – 1000GT.

Estimated cost to industry of Option 1 & 2 = £2.6m

- 2.3.9 As with Option 1, this is expected to be an overestimate for the impact of incorporating all Merchant Ships under 500GT. We invite comments on our estimation of vessel numbers at Section 5. Q3.

- 2.3.10 **Option 3:** Implementation of Options 1 & 2 with the extension of the SOLAS requirements to also include Fishing Vessels.

- 2.3.11 In addition to the requirements set out in Options 1 and 2 above, this would mean that fishing vessels would be required to meet the SOLAS requirements for the first time;

*“Regulation 5 Entrances to enclosed spaces; the master of the ship must ensure that all entrances to unattended enclosed spaces on the ship are either kept closed or otherwise secured against entry, except when entry is necessary”.*

*“Regulation 6 (1)(a) the shipowner and the employer must each ensure that procedures for ensuring safe entry into and working in enclosed spaces are clearly laid down”.*

*“Regulation 7 (2) Drills must (a) be recorded in an official log-book, (b) be held on board ship at intervals not exceeding two months and (c) be planned and conducted in a safe manner having regard to international recommendations (d) include (i) the checking and use of (aa) personal protective equipment required for entry; (bb) communication equipment and procedures (cc) the equipment prescribed by regulation 8 (testing equipment); (dd) rescue equipment and procedures; and (ii) instructions in first aid and resuscitation techniques”.*

*“Regulation 8 (1) In respect of each ship on board which there is an accessible enclosed space, the ship owner and the employer must each ensure that- (a) the ship carries appropriate portable atmosphere testing equipment which complies with para (2); (b) the equipment referred to in sub-paragraph (a) is- (i) maintained in good working order; and (ii) where applicable, regularly serviced and calibrated according to the manufacturer’s recommendations”.*

*“(2) The equipment referred to in para (1)(a) must be capable of measuring any concentration within any enclosed space of oxygen, flammable gases or vapours, hydrogen sulphide or carbon monoxide before any seafarer enters that space”.*

## Considerations

2.4 To establish the potential impact of option 3 it was necessary to consider evidence collated from a recent survey of 50 fishing vessels carried out in July 2019 which asked the following questions;

**Q1. Does the FV have dangerous or enclosed spaces?**

**Q2. Is atmospheric testing equipment in use on board the FV and fit for purpose?**

**Q3. Does the recovery from dangerous / enclosed spaces form part of any rescue drills?**

2.4.1 From the survey results it was established that only vessels above 9 metres had what would be defined as enclosed spaces, no fishing vessels held any atmospheric testing equipment and no records of any enclosed space drills, or evidence of rescue training was recorded (see below outlining current training available).

2.4.2 MCA Principal Fishing Surveyors also advised that perhaps only a percentage of 7 metre – 12 metres but certainly over 12 metres fishing vessels would have ‘dangerous or enclosed’ spaces.

2.4.3 Statistics from the RSS and from the Marine Management Organisation (MMO), on fishing vessel numbers indicate that potentially 1300 fishing vessels of 9 metres or

over in length could be impacted by the introduction of the proposed Regulations, being extended for their inclusion, as they are not currently regulated for entry into enclosed spaces.

- 2.4.4 We found that a substantial percentage of smaller fishing vessels would fall outside of the requirement, due to their design, as the likelihood of enclosed spaces increases with vessel sizes and where onboard engines are in use, requiring a lower deck space.
- 2.4.5 To establish the potential number of fishing vessels requiring training in order for fishermen to comply with the proposed Regulations, we consulted with (SEAFISH), which has provided fishermen courses covering the dangers of enclosed spaces and the need to practice emergency rescue drills, to clarify the content. We were advised of the Basic Health and Safety course for New Entrants covering dangers associated with entry into enclosed spaces and the Safety Awareness course for Experienced Fishermen which included reference to the need for drills.
- 2.4.6 We also considered that there is a regulatory requirement for fishermen to obtain a Certificate of Competency (COC) and the details can be found via the following link: <https://www.gov.uk/guidance/fishing-certification-and-training>
- 2.4.7 From this research we felt that 50% of fishing vessels over 9 metres in length would already have some awareness or training on the dangers of enclosed spaces and rescue drills. However, we would welcome comments on fishermen training at Section 5. Q4 of this consultation.
- 2.4.8 The benefits to be gained from better safety awareness, training and provision of appropriate equipment for the rescue of seafarers cannot be underestimated. The fatality statistics (see 2.1.5 & 2.1.6) demonstrate the need for fishing vessels to be included within the proposed Regulations.
- 2.4.9 The proposed Regulations implement Option 3 which is the preferred option, because it brings the greatest safety benefits.

Estimated cost to industry of Options 1 – 3 = £3.9m.

## Provisions for exemptions

- 2.5 Under Options 2 and 3, because of the extension to vessels currently outside of regulation, exemptions may be made available for types of ship or individual ships under 500GT, for example where access to enclosed spaces is restricted to specialist shore-based personnel and/or takes place when the ship is in dry dock. This would reduce the burden on small businesses.

*Annex A - "Regulation 10 (1) The Secretary of State may on such terms (if any) as may be specified, grant exemptions from regulations 8 (drills) and 9 (testing equipment) for individual ships (or classes of ships) (a) below 500 tons (b) operated exclusively within United Kingdom waters; and (c) which satisfy the conditions set out in any one of paragraphs 2(a), (b) or (c)".*

2.5.1 Conditions on the granting of exemptions are proposed as follows.

- (a) *the ship (or class of ships) must be operated in accordance with—*
  - (i) *a schedule that requires a return to a port at intervals not exceeding [48 hours]; and*
  - (ii) *a procedure which ensures that no seafarer on board a ship enters any enclosed space whilst that ship is at sea;*
- (b) *it is not reasonably practicable to comply with regulation 8 (2)(a) in consequence of either—*
  - (i) *the pattern of operation of the ship (or class of ships); or*
  - (ii) *the arrangements for crewing the ship (or class of ships);*
- (c) *there are no enclosed spaces on the ship (or class of ships) to which seafarers might reasonably be expected to require entry, other than in exceptional circumstances.*

2.5.2 Any one of the above conditions (a), (b) or (c) would have to be satisfied. Comments are invited on the appropriateness of these conditions. Under (a)(i), the interval of 48 hours between returns to port is proposed as a condition of an exemption from drills and carriage of testing equipment. If you think alternative conditions would be more effective in ensuring health and safety, please make proposals and explain your rationale.

## Supporting Information

2.6 Proposed Regulations (Annex A)

2.6.1 MSC 350 (93) – Amending SOLAS Chapter III/19 This amendment addresses the need for crews to be trained for entry into and rescue from enclosed spaces, by regular drills, alongside those required for deployment of life saving appliances and fire safety equipment. (Annex B(1))

2.6.2 MSC 380 (94) – Amending SOLAS Chapter XI This amendment requires the carriage of atmosphere testing equipment on all ships so that crews have the means to test enclosed spaces before entry. (Annex B(2))

2.6.3 The Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (Annex C)

## Offences and Penalties

2.7 The MCA, as the UK's maritime regulatory and enforcement authority, has responsibility for both delivering and enforcing the Government's maritime policy relating to ships, seafarers and the seas around the UK. The MCA's approach to breaches of maritime legislation relies on a range of civil and criminal remedies in which, like many other regulatory regimes in the UK, civil and criminal sanctions sit alongside each other to enable the MCA to take the most proportionate action in relation to a particular breach. The decision on what is the most proportionate approach is determined by matters such as the importance of the requirement being

breached, the gravity of the contravention, the effect of the contravention on third parties etc.

2.7.1 MCA surveyors have enforcement and sanction powers which can be applied locally to ships calling at UK ports. The MCA's powers to use civil sanctions are primarily contained in the Merchant Shipping Act 1995 ("MSA"). These powers, including improvement and prohibition orders, are limited in scope and available only for specific purposes. Other than the power to detain a ship, it is not possible to replicate all the civil sanctions in the MSA in secondary legislation implementing international obligations or other policy objectives as there is no power to do so in the MSA. Because these civil sanctions are contained in primary legislation (the MSA), if they are needed, the sanctions will be enforced directly under the MSA. The general policy approach, in line with the MCA's published enforcement policy, is to use these civil sanctions whenever possible before using criminal offences. The MCA is aware that other legislation provides a means of introducing new civil sanctions, and this is currently the subject of a formal review.

2.7.2 In drafting the proposed Merchant Shipping and Fishing Vessels (Entry into Enclosed Spaces) Regulations 2021, we have used the civil penalty of detention for a breach of the Regulations (see regulation 12 of proposed regulations, Annex A). The convention under international maritime enforcement is that detention is used in cases of immediate risk – for example, until the health and safety of persons or the ship is secured. Prohibition and improvement notices are also available directly under the Merchant Shipping Act 1995. However, the power of detention cannot be used retrospectively. As the accident data quoted above demonstrates, failure to comply with these Regulations can lead to multiple fatalities. The purpose of the Regulations is to prevent loss of life or injury to persons, so we consider that there is a compelling need for criminal sanctions to be available, to provide a strong deterrent and an appropriate penalty for any breach. Each of the offences and penalties included in the proposed Regulations (see regulation 11 of proposed Regulations, Annex A) reflects an equivalent offence or penalty included in the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988.

## Section 3: Responding to this consultation

- 3.1. There are specific questions highlighted in section 5 of this document and information on how to respond to this consultation document.

### Consultees

- 3.2. Anyone may respond to this consultation and consideration will be given to all responses. We will be particularly interested to hear from: Representatives of the Fishing Industry, Vessel Owners, Cargo Vessel Operators / Managers and Representatives of the Wider Shipping Industry.

### Duration

- 3.3. This consultation is open for 8 weeks from 24<sup>th</sup> May 2021. The deadline for responses is 19<sup>th</sup> July 2021.

### Submitting your response

- 3.4. The preference is for consultation responses to be emailed to [seafarersafety@mcga.gov.uk](mailto:seafarersafety@mcga.gov.uk). Any questions should also be sent to this email address. You can also send in your response by post. [During the current COVID-19 pandemic we are working away from the office and the collection of post is limited.]
- 3.5. When responding, representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions.

### Freedom of Information

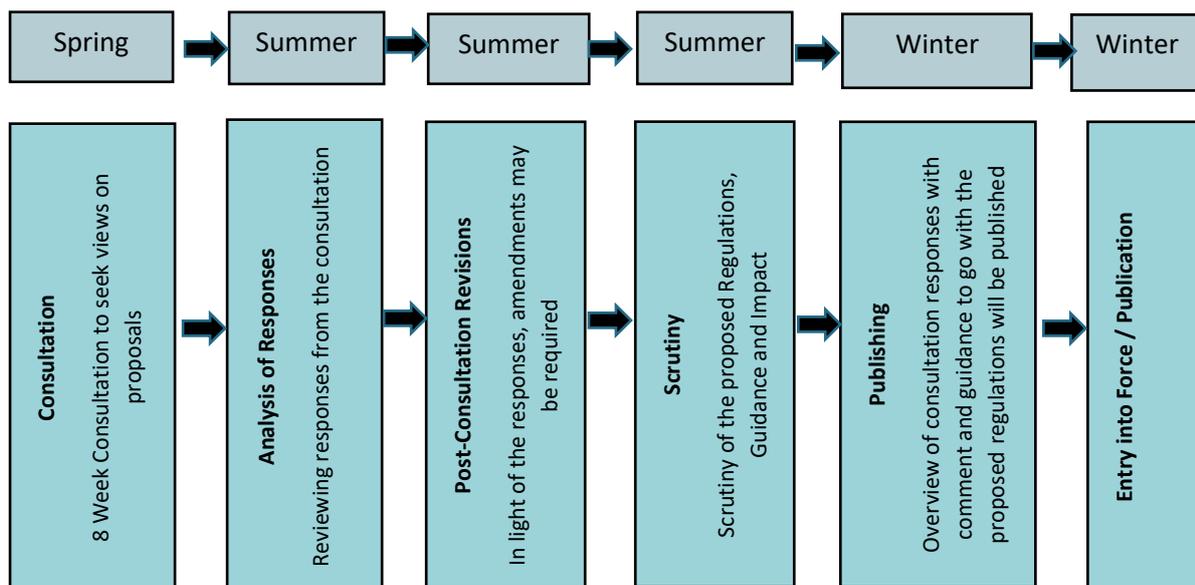
- 3.6. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.
- 3.7. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 3.8. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department/MCA.
- 3.9. The MCA will process your personal data in accordance with the data protection framework and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## Data Protection

- 3.10. The MCA is carrying out this consultation to gather evidence to inform the development and implementation of policy and legislation under the enabling provisions of the Merchant Shipping Act 1995 Part IV Section(s) 85 and 86(4). This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain information that allows you to be identified, under data protection law, the MCA, as an Executive Agency of the Department for Transport, will be the Controller for this information.
- 3.11. The MCA will use your contact details to send you information about the consultation, for example if we need to ask follow-up questions. You do not have to give us this personal information but if you do choose to provide it, it will not be used for any other purpose without your permission.
- 3.12. Details about how the MCA looks after personal data, your rights, how to complain, and how to contact our Data Protection Manager can be found on gov.uk at:  
  
<https://www.gov.uk/government/organisations/maritime-and-coastguard-agency/about/personal-information-charter>
- 3.13. Your information will be kept securely on the MCA's IT system and any written responses will be held in a secure file and cabinet and kept for up to five years, until a post-implementation review has been completed.
- 3.14. If you do not wish to remain on this list, please let us know at:  
[seafarersafety@mcga.gov.uk](mailto:seafarersafety@mcga.gov.uk)

## Section 4: Outline of plans beyond this consultation

- 4.1. Once this consultation closes, we will review all responses. In considering the responses we will apply appropriate weight to those from organisations and individuals with specialist knowledge of the subject area.
- 4.2. We will be analysing the responses during summer 2021. Our aim is to publish an overview of the responses and the MCA's comments by October 2021, which will be available on [www.gov.uk](http://www.gov.uk) along with the consultation.
- 4.3. Where appropriate the proposed Regulations will be revised to take into consideration the consultation responses.
- 4.4. Our aim is for the amendment to come into force **November 2021**. The Regulations will be published on [www.legislation.gov.uk](http://www.legislation.gov.uk)
- 4.5. Every effort will be made to publish the revised guidance as an MGN as necessary on GOV.UK in advance of **November 2021**.
- 4.6. Chapter 15 of COSWP will be amended by autumn 2022.
- 4.7. An overview timetable is below is below for reference:



## Section 5: Response form

What is your name? \_\_\_\_\_

What is your email address? \_\_\_\_\_

What is your job title? \_\_\_\_\_

**When responding please state whether you are responding as an individual or representing the views of an organisation:**

- I am responding as an individual
- I am responding on behalf of an organisation

(name of organisation) \_\_\_\_\_

**Please check the box that best describes you as a respondent and the size of your organisation:**

### Respondent Type

- Classification Society
- Government Agency/Department
- Individual
- Legal representative
- Protection & Indemnity
- Seafarer
- Ship Operator
- Ship Owner
- Trade Union
- Other

(please describe) \_\_\_\_\_

### Size of Organisation

- Large business (over 250 staff)
- Medium business (50 to 250 staff)
- Micro business (up to 9 staff)
- Small business (10 to 49 staff)

## Section 5.1 Consultation Questions

Q1. Which of the three options do you feel should be implemented and why?

Q2. Do you feel that a coming into force date of the November 2021, gives ship owners, managers, skippers sufficient time to set in place the necessary procedures to meet the change in regulation?

Q3. Under Option 2, we estimate only a percentage of under 500GT merchant ships will be impacted. Outlined as 30% currently meeting SOLAS requirements through PSC, 20% voluntarily applying SOLAS requirements through industry best practice, 20% who are operating domestic routes and which would access enclosed spaces only as part of an 'onshore' maintenance programme and the remaining 30% as unknown operation. Which gives an estimate of 70% of merchant ships under 500GT as potentially impacted. Do you agree with the 70% estimation?

Q4: Under Option 3, we estimate that the cost of training for fishing vessels to be £317k on the basis that 50% of fishermen have already had enclosed space training contained within the Basic Health and Safety course for new entrants and in the Safety Awareness course for experienced fishermen. Do you agree with this assumption and if not please explain why and tell us what proportion of fishermen may require more training as a result of the proposed Regulations?

Q5. If you do not feel option 3 is suitable, please give evidence to support this view. What alternative measures or action do you feel could be taken to improve awareness within the Merchant and Fishing Industries on the dangers of enclosed spaces?

Q6. Do you agree that provision should be made for exemptions for vessels under 500GT which fall outside the scope of the SOLAS requirements? If so, do you agree with the conditions placed on such exemptions?

Q7. Do you agree to using the **term** 'enclosed spaces' instead of 'dangerous spaces' as defined? (see 2.2.2)

Q8. Do you agree to (i) the definition of 'enclosed space' as defined within regulation 3 of the proposed Regulation and (ii) to the alteration of the word '**and**' to '**or**' within regulation 3 (b)? (see 2.2.3) If you do not agree, please outline why.

Q9. What proportion of UK non-tanker and passenger ships of 500GT to 1000GT do you estimate already carry out enclosed space entry drills?

Q10. What proportion of UK merchant ships do you estimate already carry atmosphere testing equipment which meets the standard? If the proportion varies according to size of vessel, please make clear which vessels you are referring to.

Q11. What proportion of UK shipping companies do you estimate already send seafarers on the recognised enclosed spaces training courses?

Q12. Do you agree with our assessment of the impact of the proposed Regulations? Are there other costs or benefits to be considered?

## Section 5.2

Do you have any additional comments to add to the response?

Please return completed response forms to [seafarersafety@mcga.gov.uk](mailto:seafarersafety@mcga.gov.uk)

Alternatively, responses may be posted to:

Seafarer Services  
Maritime and Coastguard Agency  
Bay 2/17  
Spring Place  
105 Commercial Road  
Southampton, SO15 1EG

## Section 6: Conduct of this consultation

- 6.1. This consultation has been conducted in accordance with the Cabinet Office Consultation Principles.

### Consultation principles

- 6.2. The Cabinet Office Consultation Principles can be found at [Consultation Principles 2018](#)

### Feedback on conduct of consultation

- 6.3. If you have any comments regarding the conduct of this consultation, please contact the Consultation Co-ordinator at [consultation.coordinator@mcga.gov.uk](mailto:consultation.coordinator@mcga.gov.uk).
- 6.4. We are continually trying to improve the way in which we conduct consultations and appreciate your views. We would be grateful if you could complete and return the attached feedback form. These should be submitted to the Consultation Co-ordinator and are not affected by the deadline for this consultation.
- 6.5. If you require this consultation in an alternative format, please contact either the Consultation Co-ordinator or the named official conducting this consultation.

**MCA CONSULTATION FEEDBACK FORM**

1. Please indicate on which Consultation you are providing feedback:

.....

2a. Please indicate whether you are responding on behalf of:

- Yourself as an Individual
- A Trade Association
- A Company
- A Government Organisation
- A Trade Union
- Other  
(please specify) \_\_\_\_\_

2b. If you are representing a company, please indicate the size of your company:

- Micro (1-9 employees)
- Small (10-49 employees)
- Medium (50-249 employees)
- Large (250+ employees)

2c. Please indicate whether you accessed this consultation package through:

- Post
- email
- Website

3. Please rate the quality of this consultation regarding accuracy, good English and spelling:

- Very good
- Good
- Average
- Poor
- Very Poor

4. Please rate the format of the consultation presentation (layout, Annexes etc.):

- Very good
- Good
- Average
- Poor
- Very Poor

5. Please rate the consultation in terms of how clear and concise you felt it was:
- Very good
  - Good
  - Average
  - Poor
  - Very Poor
6. Did you feel that the consultation was conducted over a sufficient period of time?
- Yes
  - No
7. Were any representative groups, organisations or companies not consulted who you felt should have been?
- Yes
  - No
- If yes, who? \_\_\_\_\_
8. Please let us have any suggestions for improvement or other comments you wish to make about this consultation below:

Thank you for your time. Please return this form to:

Consultation Co-ordinator,  
Maritime and Coastguard Agency,  
Spring Place, Bay 3/26, 105 Commercial Road  
Southampton SO15 1EG  
Or e-mail it to: [consultation.coordinator@mcga.gov.uk](mailto:consultation.coordinator@mcga.gov.uk)

If you are happy to supply your name in case we need to contact you to discuss your views further, please enter it below (this is optional, and your feedback will still be taken into account if you wish to remain anonymous):

Name \_\_\_\_\_

Tel. No. \_\_\_\_\_

**Please note that the deadline for responses to the Consultation itself does not apply to the return of this form.**

- Annex A: Proposed Regulations 2021**
- Annex B (1): MSC 350(92)**
- Annex B (2): MSC 380(94)**
- Annex C: The UK Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988**

2021 No. 0000

**MERCHANT SHIPPING****HEALTH AND SAFETY****The Merchant Shipping and Fishing Vessels (Entry into Enclosed Spaces)  
Regulations 2021***Made* - - - - [ ] 2021*Laid before Parliament* [ ]<sup>th</sup> [ ] 2021*Coming into force* - - [ ]<sup>th</sup> [ ] 2021

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 85(1), (3)(a), (c), (d), (g), (n) and (o), (6) and (7), 86(1)(a), (b) and (d), 302 and 306A of the Merchant Shipping Act 1995(1) and with the consent of the Treasury.

The Secretary of State has consulted such persons in the United Kingdom as the Secretary of State considers will be affected by the exercise of powers in this instrument in accordance with section 86(4) of that Act.

**Citation and commencement**

1. These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Entry into Enclosed Spaces) Regulations 2021 and come into force on [ ]<sup>th</sup> [ ] 2021.

**Revocation of the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988**

2. The Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988(2) are revoked.

**Interpretation**

3.—(1) In these Regulations—

“the Act” means the Merchant Shipping Act 1995;

“employer” means, in relation to a ship, the person for the time being employing the seafarers;

(1) 1995 c. 21; sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7. Section 85 was amended by the British Overseas Territories Act 2002 (c. 8), section 2(3). Section 306A was inserted by the Deregulation Act 2015 (c. 20), section 106. There are other amendments not relevant to these Regulations.

(2) S.I. 1988/1638, amended by S.I. 1988/2274, 1993/1072, 2005/2114 and 2020/501.

“enclosed space” means a space which has any of the following characteristics—

- (a) limited openings for entry and exit;
- (b) inadequate ventilation; or
- (c) is not designed for continuous worker occupancy;

“Maritime Labour Certificate” and “interim Maritime Labour Certificate” mean, in relation to a ship, a certificate of that name issued in accordance with the MLC, in a form corresponding to the relevant model given in Appendix A5-II of the MLC and having the contents, duration and validity specified in Regulation 5.1.3 and Standard A5.1.3 of the MLC;

“master”, in relation to a ship, includes any person in charge of the ship during the absence of the master but excludes a watchman;

“the MLC” means the Maritime Labour Convention adopted on 23rd February 2006 by the General Conference of the International Labour Organization(3);

“pleasure vessel” means—

- (a) any vessel which at the time it is being used is—
  - (i) in the case of a vessel wholly owned by—
    - (aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
    - (bb) 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) on a voyage or excursion which is one for which the owner 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 excursion; or
- (b) any vessel wholly owned 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 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 users of the vessel, other than by the owner; 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;

“relevant guidance” means the revised recommendations for entering enclosed spaces aboard ships adopted by the International Maritime Organization on 30th November 2011 for the purpose of regulations III-19 and XI-1/7 of SOLAS, as modified or replaced from time to time;

“seafarer” means any person, including a master, who is employed or engaged or works in any capacity on board a ship and whose normal place of work is on that ship;

“ship” includes hovercraft;

“shipowner” means—

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(3) Cmnd 9364, previously published as Cm No.7049. The Maritime Labour Convention may be downloaded from the website of the International Labour Organisation at [www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm) or found on the Foreign, Commonwealth and Development Office treaties database ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/569327/TS\\_37.2016\\_Cm\\_9364\\_Maritime\\_Labour\\_Convention\\_WEB.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/569327/TS_37.2016_Cm_9364_Maritime_Labour_Convention_WEB.pdf)). Copies of the Maritime Labour Convention may be obtained as a priced publication from [www.tsoshop.co.uk](http://www.tsoshop.co.uk), by post from TSO Customer Services, 18 Central Avenue, St Andrews Business Park, Norwich, NR7 0HR, tel: +44 (0) 333 202 5070 or inspected free of charge at the Maritime and Coastguard Agency (MCA), Spring Place, 105 Commercial Road, Southampton, SO15 1EG. Hard copies of Command Paper No. 7049 are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW. The Parliamentary Archives catalogue number for Command Paper No.7049 is HL/PO/JO/10/20/26/803.

(a) in relation to a ship which has a valid Maritime Labour Certificate or interim Maritime Labour Certificate, the person identified as the shipowner on that Certificate;

(b) in relation to any other ship, the owner of the ship or, if different, any other organisation or person such as the manager, or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the owner;

“SOLAS” means the International Convention for the Safety of Life at Sea, 1974(4);

“tons” means tonnage ascertained under regulation 6 or 12(1) of the Merchant Shipping (Tonnage) Regulations 1997(5).

(2) In the application of these Regulations to a hovercraft, a reference to the master of a ship includes a reference to the captain of the hovercraft.

#### Ambulatory reference

4.—(1) In these Regulations, any reference to the MLC is to be construed—

- (a) as a reference to that Convention as modified from time to time; and
- (b) as, if that Convention is replaced, a reference to the replacement.

(2) For the purposes of paragraph (1) the MLC is modified or replaced if the modification or replacement takes effect in accordance with Article XIV of that Convention.

(3) A modification or replacement of the MLC has effect at the time such modification or replacement comes into force in accordance with Article XIV of that Convention.

#### Application

5.—(1) Subject to paragraphs (2) and (3), these Regulations apply to—

- (a) United Kingdom ships wherever they may be; and
- (b) other ships while they are within United Kingdom waters.

(2) These Regulations do not apply to—

- (a) pleasure vessels;
- (b) vessels on which there is for the time being no—
  - (i) master;
  - (ii) crew; or
  - (iii) watchman;
- (c) warships or naval auxiliaries;
- (d) any person or class of persons to whom the Confined Spaces Regulations 1997(6) apply, in respect of any activity concerning any type or class of confined space to which those Regulations apply (or, in either case, would apply but for the grant of an exemption pursuant to regulation 6 of those Regulations).

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(4) Cmnd 7874. The Convention may be obtained in copy from the International Maritime Organization of 4 Albert Embankment, London, SE1 7SR or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=79786>). The Convention was modified by its Protocol of 1978 (Cmnd 8277), which was replaced and abrogated by the Protocol of 1988 (Cm 5044) with respect to the parties to the 1988 Protocol. The amendments to the Convention are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=68013>). Hard copies of the Command Papers are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London, SW1A 0PW. The Parliamentary Archives catalogue numbers for the Command Papers are HL/PO/JO/10/11/2031/2878 (Cmnd 7874), HL/PO/JO/10/11/1959/2032 (Cmnd 8277) and HL/PO/JO/10/11/3156/2280 (Cm 5044).

(5) S.I. 1997/1510, as amended by S.I. 1998/1916, 1999/3206, 2005/2114 and 2020/362.

(6) S.I. 1997/1713, amended by S.I. 1997/2776.

(3) Regulation 8 (drills) does not apply to any vessel to which the Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020(7) apply.

#### **Entrances to enclosed spaces**

6. The master of a ship must ensure that all entrances to unattended enclosed spaces on the ship are either kept closed or otherwise secured against entry, except when entry is necessary.

#### **Entry into enclosed spaces**

7. In respect of each ship on board which there is an accessible enclosed space—

- (a) the shipowner and the employer must each ensure that procedures for ensuring safe entry into and working in enclosed spaces are clearly laid down;
- (b) the master must ensure that the procedures laid down pursuant to sub-paragraph (a) are observed on board the ship;
- (c) no person may enter or remain in an enclosed space, except in accordance with the procedures laid down pursuant to sub-paragraph (a).

#### **Drills**

8.—(1) The master of a ship must ensure that—

- (a) seafarers whose responsibilities include entry into or rescue from enclosed spaces on board that ship participate in drills which comply with paragraph (2);
- (b) the drills referred to in sub-paragraph (a) are recorded in the official log book.

(2) Drills must—

- (a) be held on board the ship at intervals not exceeding two months;
- (b) be planned and conducted in a safe manner, having regard to relevant guidance;
- (c) include—
  - (i) the checking and use of—
    - (aa) personal protective equipment required for entry;
    - (bb) communication equipment and procedures;
    - (cc) the equipment prescribed by regulation 9 (testing equipment);
    - (dd) rescue equipment and procedures; and
  - (ii) instructions in first aid and resuscitation techniques.

#### **Testing equipment**

9. In respect of each ship on board which there is an accessible enclosed space, the shipowner and the employer must each ensure that—

- (a) the ship carries appropriate portable atmosphere testing equipment that enables a seafarer to measure any concentration within that space of oxygen, flammable gases or vapours, hydrogen sulphide and carbon monoxide before any seafarer enters that space;
- (b) the equipment referred to in sub-paragraph (a) is—
  - (i) maintained in good working order; and

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(7) S.I. 2020/501.

- (ii) where applicable, regularly serviced and calibrated according to the manufacturer's recommendations.

### Exemptions

10.—(1) The Secretary of State may, on such terms, if any, as may be specified, grant exemptions from regulations 8 (drills) and 9 (testing equipment) for an individual ship or classes of ships—

- (a) below 500 tons;
- (b) operating exclusively within United Kingdom waters; and
- (c) which satisfy the conditions set out in any one of paragraphs (2)(a), (b) or (c).

(2) The conditions referred to in paragraph (1) are—

- (a) the ship or class of ships must be operated in accordance with—
  - (i) a schedule that requires a return to a port at intervals not exceeding [48 hours]; and
  - (ii) a procedure which ensures that no seafarer on board a ship enters any enclosed space whilst that ship is at sea;
- (b) it is not reasonably practicable to comply with regulation 8(2)(a) in consequence of either—
  - (i) the pattern of operation of the ship or class of ships; or
  - (ii) the arrangements for crewing the ship or class of ships;
- (c) there are no enclosed spaces on the ship or class of ships to which a seafarer might reasonably be expected to require entry, other than in exceptional circumstances.

(3) Where an exemption is granted to a ship or class of ships on satisfaction of the conditions set out in either paragraph (2)(b) or (c), the shipowner and the employer must each ensure that—

- (a) seafarers participate in drills equivalent to those prescribed by regulation 8(2)(b) and (c)—
  - (i) in the case of paragraph (2)(b), in such other manner and at such other intervals as may be reasonably practicable; and
  - (ii) in the case of paragraph (2)(c), if entry is required in exceptional circumstances, before entry is effected;
- (b) the drills referred to in sub-paragraph (a) are recorded in the official log book.

(4) The Secretary of State may, on giving reasonable notice, alter or cancel any exemption granted under this regulation.

(5) An exemption granted under paragraph (1) or an alteration or cancellation under paragraph (4) must—

- (a) be in writing,
- (b) specify the date on which it takes effect, and
- (c) in the case of an exemption, specify the terms (if any) on which it is given.

(6) The requirement that an exemption granted under paragraph (1) or an alteration or cancellation under paragraph (4) be in writing is satisfied where the text is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

### Offences and penalties

11.—(1) A master of a ship who fails to comply with any of the requirements of regulation 6, 7(b) or 8(1) is guilty of an offence.

(2) A shipowner or an employer who fails to comply with any of the requirements of regulation 7(a), 9 or 10(3) is guilty of an offence.

(3) A person who contravenes regulation 7(c) is guilty of an offence.

(4) An offence under these Regulations is punishable—

(a) on summary conviction—

(i) in England and Wales, by a fine; or

(ii) in Scotland or Northern Ireland, by a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, by a fine or imprisonment for a term not exceeding two years or both.

(5) It is a defence for a person charged with an offence under these Regulations that the person took all reasonable steps to avoid commission of the offence.

(6) Where an offence under these Regulations is committed, or would have been committed but for the operation of paragraph (5), by any person (“the first person”) due to an act or omission to act on the part of some other person (“the second person”), the second person shall be guilty of the offence.

(7) The second person may be charged with and convicted of an offence pursuant to paragraph (6) whether or not proceedings are taken against the first person.

### Detention

12.—(1) Any ship which does not comply with the requirements of these Regulations may be detained.

(2) Section 284 (enforcing detention of ship)(8) of the Act applies where a ship is liable to be detained under this regulation as if—

(a) references to the owner of a ship were to the shipowner under these Regulations;

(b) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and

(c) subsection (7) were omitted.

(3) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—

(a) states the grounds of the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(4) Subject to paragraph (5), section 96 (references of detention notices to arbitration)(9) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 (power to detain dangerously unsafe ship).

(5) For the purposes of paragraph (4)—

(a) section 96 of the Act applies as if—

(i) subsection (3) were omitted;

(ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;

(iii) subsection (11) were omitted; and

(b) sections 96 and 97 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.

(8) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 9 and Schedule 1, and S.I. 2015/664.

(9) Section 96(7) was amended by the Tribunals, Courts and Enforcement Act 2007 (c. 15), Schedule 10, Part 1 and by the Constitutional Reform Act 2005 (c. 4), Schedule 11. Section 96(10) was repealed by the Arbitration Act 1996 (c. 23), Schedule 4.

(6) Subject to paragraph (7), where a ship other than a United Kingdom ship is detained, the Secretary of State must immediately inform the ship's flag administration in writing.

(7) If it is not possible to inform the ship's flag administration in accordance with paragraph (6), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

(8) For the purposes of paragraphs (6) and (7), "flag administration" in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

#### **Amendment of the Merchant Shipping (Fees) Regulations 2018**

13.—(1) The Merchant Shipping (Fees) Regulations 2018<sup>(10)</sup> are amended as follows.

(2) In Schedule 1, in Part 1, in paragraph 5, in the table, in Section A—

- (a) in the first column, for "The Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988", substitute "The Merchant Shipping and Fishing Vessels (Entry into Enclosed Spaces) Regulations 2021";
- (b) in the second column, for "1988/1638", substitute "2021<sup>[ ]</sup>";
- (c) in the third column, omit—
  - (i) "1988/2274",
  - (ii) "1993/1072" the first time it appears; and
  - (iii) "2005/2114" the first time it appears.

#### **Review**

14.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before   th    2026.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015<sup>(11)</sup> requires that a review carried out under this regulation must, so far as is reasonable, have regard to how regulation 19 of Chapter III and regulation 7 of Chapter XI-1 of SOLAS are implemented in other countries which are subject to SOLAS.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provisions referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

<sup>(10)</sup> S.I. 2018/1104, to which there are amendments not relevant to these Regulations.

<sup>(11)</sup> 2015 c. 26. Section 30(3) was amended by the Enterprise Act 2016 (c. 12), section 19 and the European Union (Withdrawal) Act 2018 (c. 16), Schedule 8, Part 2, paragraph 36.

Date *Name*  
Parliamentary Under Secretary of State  
Department for Transport

We consent to the making of these Regulations

Date *Names*  
Two of the Lords Commissioners of Her Majesty's Treasury

#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988; re-enact certain provisions of those Regulations; and give effect to amendments to regulation 19 of Chapter III and the new regulation 7 of Chapter XI-1 of the International Convention for the Safety of Life at Sea 1974 ("SOLAS").

The Regulations require shipowners, masters, employers of seafarers and other persons to comply with obligations designed to avoid deaths in enclosed spaces.

The Regulations provide for the granting of exemptions (regulation 10).

The Regulations also provide for contravention of the various requirements to be offences and subject to criminal penalties (regulation 11). In cases of non-compliance a ship may be detained (regulation 12).

The Merchant Shipping (Fees) Regulations 2018 are amended to substitute a reference to these Regulations for the existing reference to the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (regulation 13).

The Secretary of State must review these Regulations and publish a report within five years after they come into force and within every five years after that (regulation 14). Following a review, it will fall to the Secretary of State to consider whether these Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke or amend these Regulations.

SOLAS and its Protocol of 1988 may be obtained in copy from the International Maritime Organization (IMO), 4 Albert Embankment, London, SE1 7SR and both are available on the Foreign, Commonwealth and Development Office (FCDO) treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=79786>). The text of the IMO Resolutions amending the Convention and Protocol may be obtained from the IMO or on the FCDO treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=68013>).

The Maritime Labour Convention (MLC) is available on the website of the International Labour Organisation (ILO) at [www.ilo.org/global/standards/maritime-labour-convention/lang-en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/lang-en/index.htm) and on the FCDO treaties database (<http://foto.archivalware.co.uk/data/Library2/pdf/2016-TS0037.pdf>).

Copies of the MLC may be obtained as a priced publication from [www.tsoshop.co.uk](http://www.tsoshop.co.uk), or by post from TSO Customer Services, 18 Central Avenue, St. Andrew's Business Park, Norwich, NR7 0HR, tel: +44 (0) 333 202 5070 or inspected free of charge at the Maritime and Coastguard Agency (MCA), Spring Place, 105 Commercial Road, Southampton, SO15 1EG.

Future amendments to the MLC may be obtained in copy from the ILO and, after coming into force in the United Kingdom, found on the FCDO treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>). Until such publication is made on the FCDO treaties database, an amendment will be available from the MCA and on <https://www.gov.uk>. An amendment will be publicised in advance of its in-force date by means of a Parliamentary Statement to both Houses of Parliament and by way of a Marine Guidance Note, which will be available in copy from the MCA and on <https://www.gov.uk>.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

RESOLUTION MSC.350(92)  
(Adopted on 21 June 2013)  
AMENDMENTS TO THE INTERNATIONAL CONVENTION  
FOR THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED

**RESOLUTION MSC.350(92)**  
**(Adopted on 21 June 2013)**

**AMENDMENTS TO THE INTERNATIONAL CONVENTION  
FOR THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED**

THE MARITIME SAFETY COMMITTEE,

RECALLING Article 28(b) of the Convention on the International Maritime Organization concerning the functions of the Committee,

RECALLING ALSO article VIII(b) of the International Convention for the Safety of Life at Sea (SOLAS), 1974 (hereinafter referred to as "the Convention"), concerning the amendment procedure applicable to the annex to the Convention, other than to the provisions of chapter I thereof,

HAVING CONSIDERED, at its ninety-second session, amendments to the Convention, proposed and circulated in accordance with article VIII(b)(i) thereof,

1. ADOPTS, in accordance with article VIII(b)(iv) of the Convention, amendments to the Convention, the text of which is set out in the annex to the present resolution;
2. DETERMINES, in accordance with article VIII(b)(vi)(2)(bb) of the Convention, that the said amendments shall be deemed to have been accepted on 1 July 2014, unless, prior to that date, more than one third of the Contracting Governments to the Convention or Contracting Governments the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments;
3. INVITES SOLAS Contracting Governments to note that, in accordance with article VIII(b)(vii)(2) of the Convention, the amendments shall enter into force on 1 January 2015 upon their acceptance in accordance with paragraph 2 above;
4. REQUESTS the Secretary-General, in conformity with article VIII(b)(v) of the Convention, to transmit certified copies of the present resolution and the text of the amendments contained in the annex to all Contracting Governments to the Convention;
5. ALSO REQUESTS the Secretary-General to transmit copies of this resolution and its annex to Members of the Organization which are not Contracting Governments to the Convention.

ANNEX

**AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR  
THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED**

**CHAPTER III  
LIFE-SAVING APPLIANCES AND ARRANGEMENTS**

**Part B  
Requirements for ships and life-saving appliances**

**Regulation 19 – Emergency training and drills**

1 The existing text of paragraphs 2.2 and 2.3 is replaced with the following:

"2.2 On a ship engaged on a voyage where passengers are scheduled to be on board for more than 24 h, musters of newly-embarked passengers shall take place prior to or immediately upon departure. Passengers shall be instructed in the use of the lifejackets and the action to take in an emergency.

2.3 Whenever new passengers embark, a passenger safety briefing shall be given immediately before departure, or immediately after departure. The briefing shall include the instructions required by regulations 8.2 and 8.4, and shall be made by means of an announcement, in one or more languages likely to be understood by the passengers. The announcement shall be made on the ship's public address system, or by other equivalent means likely to be heard at least by the passengers who have not yet heard it during the voyage. The briefing may be included in the muster required by paragraph 2.2. Information cards or posters or video programmes displayed on ships video displays may be used to supplement the briefing, but may not be used to replace the announcement."

2 After existing paragraph 3.2, a new paragraph 3.3 is inserted as follows:

"3.3 Crew members with enclosed space entry or rescue responsibilities shall participate in an enclosed space entry and rescue drill to be held on board the ship at least once every two months."

3 Existing sections 3.3 and 3.4 are renumbered as 3.4 and 3.5, respectively. In the renumbered paragraph 3.4.2, the reference "paragraph 3.3.1.5" is replaced by the reference "paragraph 3.4.1.5"; and in the renumbered paragraph 3.4.3, the reference "paragraphs 3.3.4 and 3.3.5" is replaced by the reference "paragraphs 3.4.4 and 3.4.5".

4 After the renumbered section 3.5, the following new section is added:

"3.6 Enclosed space entry and rescue drills

3.6.1 Enclosed space entry and rescue drills should be planned and conducted in a safe manner, taking into account, as appropriate, the guidance provided in the recommendations developed by the Organization.

3.6.2 Each enclosed space entry and rescue drill shall include:

.1 checking and use of personal protective equipment required for entry;

- .2 checking and use of communication equipment and procedures;
- .3 checking and use of instruments for measuring the atmosphere in enclosed spaces;
- .4 checking and use of rescue equipment and procedures; and
- .5 instructions in first aid and resuscitation techniques."

5 In paragraph 4.2, at the end of subparagraph .3, the word "and" is deleted; at the end of subparagraph .4, the period "." is replaced by the word "; and"; and after subparagraph .4, the following new subparagraph is added:

- "5 risks associated with enclosed spaces and onboard procedures for safe entry into such spaces which should take into account, as appropriate, the guidance provided in recommendations developed by the Organization."

6 In paragraph 5, after the words "fire drills,", the words "enclosed space entry and rescue drills," are inserted.

## **CHAPTER V SAFETY OF NAVIGATION**

### **Regulation 19 – Carriage requirements for shipborne navigational systems and equipment**

7 In subparagraph 1.2.1, the words "1.2.2 and 1.2.3" are replaced with the words "1.2.2, 1.2.3 and 1.2.4".

8 In subparagraph 1.2.2, the word "and" at the end of the subparagraph is deleted and in subparagraph 1.2.3, the full stop "." is replaced with the word "; and".

9 After the existing subparagraph 1.2.3, the following new subparagraph is added:

- "4 be fitted with the system required in paragraph 2.2.3, as follows:
  - .1 passenger ships irrespective of size, not later than the first survey after 1 January 2016;
  - .2 cargo ships of 3,000 gross tonnage and upwards, not later than the first survey after 1 January 2016;
  - .3 cargo ships of 500 gross tonnage and upwards but less than 3,000 gross tonnage, not later than the first survey after 1 January 2017; and
  - .4 cargo ships of 150 gross tonnage and upwards but less than 500 gross tonnage, not later than the first survey after 1 January 2018.

The bridge navigational watch alarm system shall be in operation whenever the ship is underway at sea.

The provisions of paragraph 2.2.4 shall also apply to ships constructed before 1 July 2002."

10 After the new subparagraph 1.2.4, the following new paragraph is added:

"1.3 Administrations may exempt ships from the application of the requirement of paragraph 1.2.4 when such ships will be taken permanently out of service within two years after the implementation date specified in subparagraphs 1.2.4.1 to 1.2.4.4."

#### **CHAPTER XI-1 SPECIAL MEASURES TO ENHANCE MARITIME SAFETY**

##### **Regulation 1 – Authorization of recognized organizations**

11 The existing text of regulation 1 is replaced with the following:

"The Administration shall authorize organizations, referred to in regulation I/6, including classification societies, in accordance with the provisions of the present Convention and with the Code for Recognized Organizations (RO Code), consisting of part 1 and part 2 (the provisions of which shall be treated as mandatory) and part 3 (the provisions of which shall be treated as recommendatory), as adopted by the Organization by resolution MSC.349(92), as may be amended by the Organization, provided that:

- .1 amendments to part 1 and part 2 of the RO Code are adopted, brought into force and take effect in accordance with the provisions of article VIII of the present Convention;
- .2 amendments to part 3 of the RO Code are adopted by the Maritime Safety Committee in accordance with its Rules of Procedure; and
- .3 any amendments adopted by the Maritime Safety Committee and the Marine Environment Protection Committee are identical and come into force or take effect at the same time, as appropriate."

**RESOLUTION MSC.380(94)**  
**(adopted on 21 November 2014)**

**AMENDMENTS TO THE INTERNATIONAL CONVENTION**  
**FOR THE SAFETY OF LIFE AT SEA (SOLAS), 1974, AS AMENDED**

THE MARITIME SAFETY COMMITTEE,

RECALLING Article 28(b) of the Convention on the International Maritime Organization concerning the functions of the Committee,

RECALLING ALSO article VIII(b)(vi)(2) of the International Convention for the Safety of Life at Sea (SOLAS), 1974 ("the Convention"), concerning the amendment procedure applicable to the annex to the Convention, other than to the provisions of chapter I,

HAVING CONSIDERED, at its ninety-fourth session, amendments to the Convention, proposed and circulated in accordance with article VIII(b)(i) thereof,

1 ADOPTS, in accordance with article VIII(b)(iv) of the Convention, amendments to the Convention, the text of which is set out in the annex to the present resolution;

2 DETERMINES, in accordance with article VIII(b)(vi)(2)(bb) of the Convention, that the said amendments shall be deemed to have been accepted on 1 January 2016 unless, prior to that date, more than one third of the Contracting Governments to the Convention or Contracting Governments, the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant fleet, have notified to the Secretary-General of the Organization their objections to the amendments;

3 INVITES SOLAS Contracting Governments to note that, in accordance with article VIII(b)(vii)(2) of the Convention, the amendments shall enter into force on 1 July 2016 upon their acceptance in accordance with paragraph 2 above;

4 REQUESTS the Secretary-General, for the purposes of article VIII(b)(v) of the Convention, to transmit certified copies of the present resolution and the text of the amendments contained in the annex to all Contracting Governments to the Convention;

5 ALSO REQUESTS the Secretary-General to transmit copies of this resolution and its annex to Members of the Organization which are not Contracting Governments to the Convention.

ANNEX

**AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE  
SAFETY OF LIFE AT SEA (SOLAS), 1974, AS AMENDED**

**CHAPTER II-2  
CONSTRUCTION – PROTECTION, FIRE DETECTION AND FIRE EXTINCTION**

**Part C  
Suppression of fire**

**Regulation 10 – Fire fighting**

1 The title of existing paragraph 5.2 is replaced as follows:

**"5.2 Machinery spaces of category A containing internal combustion machinery"**

**CHAPTER VI  
CARRIAGE OF CARGOES AND OIL FUELS**

**Part A  
General Provisions**

**Regulation 2 – Cargo information**

2 The following new paragraphs 4 to 6 are added after existing paragraph 3:

"4 In the case of cargo carried in a container, except for containers carried on a chassis or a trailer when such containers are driven on or off a ro-ro ship engaged in short international voyages as defined in regulation III/3, the gross mass according to paragraph 2.1 of this regulation shall be verified by the shipper, either by:

- .1 weighing the packed container using calibrated and certified equipment; or
- .2 weighing all packages and cargo items, including the mass of pallets, dunnage and other securing material to be packed in the container and adding the tare mass of the container to the sum of the single masses, using a certified method approved by the competent authority of the State in which packing of the container was completed.

5 The shipper of a container shall ensure the verified gross mass is stated in the shipping document. The shipping document shall be:

- .1 signed by a person duly authorized by the shipper; and
- .2 submitted to the master or his representative and to the terminal representative sufficiently in advance, as required by the master or his representative, to be used in the preparation of the ship stowage plan.

6 If the shipping document, with regard to a packed container, does not provide the verified gross mass and the master or his representative and the terminal representative have not obtained the verified gross mass of the packed container, it shall not be loaded on to the ship.

**CHAPTER XI-1  
SPECIAL MEASURES TO ENHANCE MARITIME SAFETY**

3 The following new regulation 7 is added after existing regulation 6:

**"Regulation 7 – Atmosphere testing instrument for enclosed spaces**

Every ship to which chapter I applies shall carry an appropriate portable atmosphere testing instrument or instruments. As a minimum, these shall be capable of measuring concentrations of oxygen, flammable gases or vapours, hydrogen sulphide and carbon monoxide prior to entry into enclosed spaces. Instruments carried under other requirements may satisfy this regulation. Suitable means shall be provided for the calibration of all such instruments.

**APPENDIX  
CERTIFICATES**

**Record of Equipment for Cargo Ship Safety (Form C)  
Record of Equipment for Cargo Ship Safety (Form E)**

4 Section 2 of the Record of Equipment for Cargo Ship Safety (Form C) and the Record of Equipment for Cargo Ship Safety (Form E), is replaced with the following:

"2 **Details of life-saving appliances**

1 Total number of persons for which life-saving appliances are provided .....		Port Side	Starboard Side
2	Total number of davit launched lifeboats	.....	.....
2.1	Total number of persons accommodated by them	.....	.....
2.2	Number of self-righting partially enclosed lifeboats (regulation III/43)	.....	.....
2.3	Number of totally enclosed lifeboats (regulation III/31 and LSA Code, section 4.6)	.....	.....
2.4	Number of lifeboats with a self-contained air support system (regulation III/31 and LSA Code, section 4.8)	.....	.....
2.5	Number of fire-protected lifeboats (regulation III/31 and LSA Code, section 4.9)	.....	.....
2.6	Other lifeboats	.....	.....
2.6.1	Number	.....	.....
2.6.2	Type	.....	.....
3	Total number of free-fall lifeboats	.....	.....
3.1	Total number of persons accommodated by them	.....	.....
3.2	Number of totally enclosed lifeboats (regulation III/31 and LSA Code, section 4.7)	.....	.....
3.3	Number of lifeboats with a self-contained air support system (regulation III/31 and LSA Code, section 4.8)	.....	.....
3.4	Number of fire-protected lifeboats (regulation III/31 and LSA Code, section 4.9)	.....	.....
4	Number of motor lifeboats (included in the total lifeboats shown in 2 and 3 above)	.....	.....
4.1	Number of lifeboats fitted with searchlights	.....	.....
5	Number of rescue boats	.....	.....
5.1	Number of boats which are included in the total lifeboats shown in 2 and 3 above	.....	.....
6	Liferafts	.....	.....
6.1	Those for which approved launching appliances are required	.....	.....
6.1.1	Number of liferafts	.....	.....

2 **Details of life-saving appliances** (continued)

6.1.2	Number of persons accommodated by them	.....
6.2	Those for which approved launching appliances are not required	.....
6.2.1	Number of liferafts	.....
6.2.2	Number of persons accommodated by them	.....
6.3	Number of liferafts required by regulation III/31.1.4	.....
7	Number of lifebuoys	.....
8	Number of lifejackets	.....
9	Immersion suits	.....
9.1	Total number	.....
9.2	Number of suits complying with the requirements for lifejackets	.....
10	Number of anti-exposure suits	.....
11	Radio installations used in life-saving appliances	.....
11.1	Number of search and rescue locating devices	.....
11.1.1	Radar search and rescue transponders (SART)	.....
11.1.2	AIS search and rescue transmitters (AIS-SART)	.....
11.2	Number of two-way VHF radiotelephone apparatus	.....

## Annex C

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)

1988 No 1638

### Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

Made - - - 21st September 1988

Authority: [Merchant Shipping Act 1995, ss 85, 86](#)

#### NOTES

##### Continuation

Authority: following the consolidation of the [Merchant Shipping Act 1979, ss 21\(1\)\(a\), \(b\), \(3\), \(4\), \(5\), \(6\), 22\(1\)](#), these Regulations have effect as if made under the [Merchant Shipping Act 1995, ss 85, 86](#).

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

##### Date made

Made - - - 21st September 1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/1

##### Citation, Commencement and Interpretation

##### 1

These Regulations may be cited as the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 and shall come into force on 1st January 1989

#### NOTES

##### Initial Commencement

##### *Specified date*

Specified date: 1 January 1989: see above.

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

##### Date made

21/09/1988

## Interpretation

### 2

In these Regulations:

“Code” means Chapter 10 of the Code of Safe Working Practices for Merchant Seamen published in 1978 by Her Majesty’s Stationery Office and any document amending or replacing it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping [Notice](#);

“dangerous space” means any enclosed or confined space in which it is foreseeable that the atmosphere may at some stage contain toxic or flammable gases or vapours, or be deficient in oxygen, to the extent that it may endanger the life or health of any person entering that [space](#);

“employer” means the person for the time being employing the [master](#);

“fishing vessel” means a vessel which is for the time being employed in fishing but does not include a vessel used otherwise than for [profit](#);

“gas carrier” means any ship constructed or adapted for the carriage in bulk of any liquefied [gas](#);

“master” includes any person in charge of the vessel during the absence of the master but excludes a [watchman](#);

“Merchant Shipping Notice” means a Notice described as such issued by the Secretary of [State](#);

“offshore installation” means any offshore installation within the meaning of [section 1](#) of the Mineral Workings (Offshore Installations) Act 1971;

[“pleasure vessel” means—

(i) any vessel which at the time it is being used is:

(a)

(i) in the case of a vessel wholly owned by an individual or individuals is used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(ii) in the case of a vessel owned by a body corporate, the persons on the vessel are employees or officers of the body corporate, or their immediate family or friends; and

(b) on a voyage or excursion which is one for which the owner 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 excursion; or

(ii) any vessel wholly owned 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 are paid into club funds and applied for the general use of the club; and

(iii) in the case of any vessel referred to in paragraphs (i) or (ii) above no other payments are made by or on behalf of users of the vessel, other than by the owner.

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;]

"tanker" means any ship constructed or adapted for the carriage in bulk of oil or chemicals;

"tons" means gross registered tons, and the gross registered tonnage of a ship having alternative gross tonnages shall be taken to be the larger of those tonnages.

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 January 1989: see reg 1.

### Amendment

Definition "pleasure vessel" substituted, for definition "pleasure craft" as originally enacted, by [SI 1993/1072, reg 3\(1\), Sch 2, Pt 4](#).

In definition "pleasure vessel" words "spouse or civil partner" in square brackets in both places they occur substituted by [SI 2005/2114, art 2\(15\), Sch 15](#).

Date in force: 5 December 2005: see [SI 2005/2114, art 1](#).

### Modification

References to owners etc of British ships, United Kingdom ships or ships registered in the United Kingdom, modified to mean, in relation to bareboat charter ships, the person registered as the charterer, by the Merchant Shipping (Modification of Enactments) (Bareboat Charter Ships) Order 1994, [SI 1994/774, art 2](#).

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

### Date made

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/3

### Application

3

- (1) Subject to paragraph (2) of this regulation,
  - (a) these Regulations except regulation 11 apply to United Kingdom ships; and
  - [(b) these regulations, other than regulations 6 and 10, apply to ships other than United Kingdom ships when they are in a port in the United Kingdom.]
- (2) These Regulations do not apply to:
  - (a) fishing vessels;
  - (b) [pleasure vessels];
  - (c) offshore installations whilst or within 500 metres of their working stations; or
  - (d) ships in which there is for the time being no master or crew or watchman.

### NOTES

#### Initial Commencement

##### *Specified date*

Specified date: 1 January 1989: see reg 1.

#### Amendment

Para (1): sub-para (b) substituted by [SI 1988/2274, art 4](#).

Para (2): words in square brackets substituted by [SI 1993/1072, reg 3\(2\)](#), [Sch 2, Part 4](#).

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

**Date made**

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/4

**Entrances to dangerous spaces**

**4**

Except when necessary for entry thereto, the master of a ship shall ensure that all entrances to unattended dangerous spaces on the ship are either kept closed or otherwise secured against entry.

**NOTES**

**Initial Commencement**

***Specified date***

Specified date: 1 January 1989: see reg 1.

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

**Date made**

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/5

**Entry into dangerous spaces**

**5**

(1)

(i) The employer shall ensure that procedures for ensuring safe entry and working in dangerous spaces are clearly laid down; and

(ii) the master shall ensure that such procedures are observed on board the ship.

(2) No person shall enter or remain in a dangerous space except in accordance with the procedures laid down pursuant to paragraph (1) of this regulation.

(3) In fulfilling their duties under paragraph (1) and (2) above the employer, master and any other person shall take full account of the principles and guidance contained in the Code.

**NOTES**

**Initial Commencement**

***Specified date***

Specified date: 1 January 1989: see reg 1.

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

**Date made**

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/6

**Drills**

**6**

The master of:

- (a) any tanker or gas carrier of 500 tons and over, and
- (b) any other ship of 1000 tons and over

shall ensure that drills simulating the rescue of a crew member from a dangerous space are held at intervals not exceeding two months, and that a record of such drills is entered in the official log book.

**NOTES**

**Initial Commencement**

***Specified date***

Specified date: 1 January 1989: see reg 1.

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

**Date made**

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/7

**Testing equipment**

**7**

The employer shall ensure that each ship where entry into a dangerous space may be necessary shall carry or otherwise have available an oxygen meter and such other testing device as is appropriate to the hazard likely to be encountered in any dangerous space on board. The master shall ensure that such meter and any such other testing device are maintained in good working order and, where applicable, regularly serviced and calibrated according to the manufacturers' recommendations.

**NOTES**

**Initial Commencement**

***Specified date***

Specified date: 1 January 1989: see reg 1.

Document information

Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

**Date made**

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/8

**Penalties**

8

- (1) Contravention of regulations 5 or 7 by an employer shall be an offence punishable on summary conviction by a fine not exceeding [the statutory maximum] or on conviction on indictment by imprisonment for a term not exceeding 2 years or a fine or both.
- (2) Contravention of regulation 4, 5, 6 or 7 by a master shall be an offence punishable on summary conviction by a fine not exceeding [level 4 on the standard scale].
- (3) Contravention of regulation 5(2) or 5(3) by any person other than the employer or master shall be an offence punishable on summary conviction by a fine not exceeding [level 3 on the standard scale].
- (4) It shall be a defence for a person charged under this regulation, including a person charged by virtue of regulation 9, to show he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

**NOTES**

**Initial Commencement**

*Specified date*

Specified date: 1 January 1989: see reg 1.

**Amendment**

Para (1): reference to the statutory maximum substituted by virtue of the [Criminal Justice Act 1988, s 51](#).

Paras (2), (3): maximum fines converted to levels on the standard scale by virtue of the [Criminal Justice Act 1988, s 52](#).

Document information

Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

**Date made**

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/9

9

Where an offence under any of these regulations is committed, or would have been committed save for the operation of regulation 8(4), by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

#### NOTES

##### Initial Commencement

###### *Specified date*

Specified date: 1 January 1989: see reg 1.

Document information
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#### Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

##### Date made

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/10

##### Inspection and detention of a United Kingdom ship

10

Any person duly authorised by the Secretary of State may inspect any United Kingdom ship and if he is satisfied that there has been a failure to comply in relation to that ship with the requirements of these Regulations he may detain the ship until the health and safety of those persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

#### NOTES

##### Initial Commencement

###### *Specified date*

Specified date: 1 January 1989: see reg 1.

Document information
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#### Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

##### Date made

21/09/1988

**Inspection and detention and other measures in respect of ships registered outside the United Kingdom**

**11**

(1) Any person duly authorised by the Secretary of State may inspect any ship other than a United Kingdom ship when the ship is in a United Kingdom port and if he is satisfied that the ship does not conform to the standards of health and safety required of United Kingdom ships by these Regulations, he may—

(a) send a report to the Government of the country in which the ship is registered and a copy thereof to the Director General of the International Labour Office; and

(b) where conditions on board are clearly hazardous to safety or health—

(i) take such measures as are necessary to rectify those conditions;

(ii) detain the ship.

Provided that the measures specified in sub-paragraphs (a) and (b) may be taken only when the ship has called at a United Kingdom port in the normal course of business or for operational reasons.

(2) If he takes either of the measures specified in paragraph (1)(b) the person duly authorised shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(3) The person duly authorised shall not in exercise of his powers under this regulation unreasonably detain or delay the ship.

**NOTES**

**Initial Commencement**

***Specified date***

Specified date: 1 January 1989: see reg 1.

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

**Date made**

21/09/1988

UK Parliament SIs 1980-1989/1988/1601-1650/Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 (SI 1988/1638)/12

### **Compensation and enforcement of detention**

#### **12**

Section 460(1) and section 692(1) to (3) and (5) of the Merchant Shipping Act 1894 (which relate respectively to liability for costs and compensation for detention of a ship and enforcing the detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the following modifications:—

- (a) in section 460(1) the following words shall be omitted:—

“by reason of the condition of the ship or the act or default of the owner”

“provisional”

“as an unsafe ship”

“and survey”

“or survey”; and

- (b) for the words “this Part of this Act” in section 460(1) and “this Act” wherever they appear in section 692(1) to (3), there shall be substituted “the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988”.

### **NOTES**

#### **Initial Commencement**

##### ***Specified date***

Specified date: 1 January 1989: see reg 1.

Document information
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Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

#### **Date made**

21/09/1988