



Department
for Transport

Consultation: strengthening enforcement of the dangerous use of recreational and personal watercraft

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1. Executive summary

- 1.1 This consultation seeks your views on proposed legislation from the Department for Transport (the Department) to bring recreational and personal watercraft (PWCs) within scope of the provisions of the Merchant Shipping Act (MSA) 1995. They will apply the same obligations which exist for the operators of ships, as appropriate, to PWCs and other recreational watercraft to ensure that they are operated safely. They will also provide, in cases of deliberate or negligent misuse, an additional power of prosecution for enforcement authorities.
- 1.2 The use of recreational watercraft and riding of PWCs is, in most cases, conducted both sensibly and safely. However, there remains a minority of users who, through their actions, can endanger other water users.
- 1.3 Local and harbour authorities, who have responsibility for managing a particular stretch of water or coastline, have powers to introduce legislation to manage PWC use within their areas. Many have already used these to excellent effect and to prosecute PWC users who do not follow these rules.
- 1.4 However, anecdotal evidence suggests that the number and severity of incidents and accidents is increasing including in areas which are outside of managed waters. Legislation covering recreational watercraft and PWC use in these areas was originally thought to have been in place under the MSA 1995. Following a court case, in which one PWC user crashed into another causing significant injuries, a subsequent judgment by the Court of Appeal brought this position into question.
- 1.5 The Department is, therefore, of the view that new national legislation is necessary to both reinforce existing measures and ensure that those who wilfully or negligently misuse recreational watercraft or PWCs, or endanger the safety of others, wherever they may be can be prosecuted.
- 1.6 The draft Merchant Shipping (Watercraft) Order (at **Annex A**), will bring PWCs, as well as recreational and other types of watercraft, within scope of the MSA 1995 essentially restoring the legal position as it was understood to be prior to the court's judgment.
- 1.7 A number of consequential amendments to related legislation, for example the Harbours Act 1964 and to facilitate registration of recreational watercraft and PWCs in the UK Ship Register, are also proposed.
- 1.8 Your comments will be used to assist the Department in understanding any potential impacts of the proposals and to inform final decisions on whether, and in what form, to bring the new legislation into force.

2. How to respond

- 2.1 This consultation period began on **6 September 2021** and will run until **1 November 2021**. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at www.gov.uk/government/consultations/strengthening-enforcement-of-the-dangerous-use-of-recreational-and-personal-watercraft or you can contact maritimesafety@dft.gov.uk if you require alternative formats (Braille, audio, etc).
- 2.2 Please send your responses to maritimesafety@dft.gov.uk.
- 2.3 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Freedom of Information

- 2.4 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.
- 2.5 If you want 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.
- 2.6 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.
- 2.7 The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Data Protection

- 2.8 The Department is carrying out this consultation to seek views and evidence on the proposed legislation to bring personal watercraft back within the provisions of the MSA 1995. 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 any information that allows you to be identified, the Department, will, under data protection law, be the Controller for this information.

- 2.9 As part of this consultation we're asking for your name and e-mail address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions.
- 2.10 The Department's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter.
- 2.11 Your information will be kept securely on a secure IT system within the Department and destroyed within 12 months after the consultation has been completed.

3. Background

- 3.1 Local and harbour authorities, who have responsibility for managing a particular stretch of water or coastline, already have powers to introduce byelaws or harbour directions to ensure the safety of all who wish to use these areas. These powers are broad and enable, for example, mandatory launch permits, insurance, speed limits, age and other restrictions as well as geographical or temporal zoning to ensure separation of water users. The Department considers that these authorities remain best placed to respond to local circumstances, as they do for other matters within their control, and given wide variations in geography and usage.
- 3.2 Local and harbour authorities have successfully prosecuted PWC users for contravention of these byelaws and harbour directions where they have introduced such measures. For more serious offences prosecutions under, for example, broader manslaughter legislation, are also possible. The proposals in this consultation will supplement these with wider offences related to the safe use of PWCs and other watercraft, explained in more detail below, and also offer a prosecution route for misuse which takes place outside of local and harbour authority managed waters under the MSA 1995.
- 3.3 The MSA 1995 was believed, prior to 2005, to be applicable to PWCs due to the wide definition of 'ship' used which includes "every description of vessel used in navigation". However, in July that year, the Crown Prosecution Service brought a prosecution under section 58 of the MSA 1995 (conduct endangering ships, structures or individuals) against a PWC rider who collided with another, stationary, PWC causing serious injuries to the rider of the latter.
- 3.4 The defendant was originally convicted but appealed on the grounds that PWCs were not "used in navigation". In December 2005, the Court of Appeal (the Court) upheld that challenge because, in its view:
 - PWC were not ships as defined in the MSA 1995 because the words "used in navigation" in the definition exclude craft that are simply used for having fun without the object of going anywhere;
 - a vessel "used in navigation" means only a vessel that makes ordered progression over the water from one place to another;
 - even if a PWC were a ship, an unregistered craft would be outside the scope of section 58 MSA 1995 because that applies to unregistered vessels (by virtue of the Merchant Shipping Act 1970 (Unregistered Ships) Regulations 1991) only if they are "seagoing" and, the Court held, a PWC is not a seagoing vessel; and

- the 1991 Regulations applied section 58 only to a “master and crew employed in” an unregistered ship and, since the appellant was not employed as a master of the PWC, section 58 MSA 1995 could not apply to him.
- 3.5 Although the case related to a PWC, the reasoning behind the Court of Appeal's judgment created wider concerns about the application of section 58 of the MSA 1995 to other vessels.
- 3.6 For instance, watercraft such as speed boats, rigid inflatable boats, dinghies and sail boards might potentially also be judged to fall outside the definition of “ship”. The Court's judgment therefore had potentially wide-reaching implications for the enforcement of legislation where the actions of PWC operators and users of similar watercraft cause accidents or endanger the safety of others. In particular, it might place them outside the scope of section 58 of the MSA 1995 and make it impossible to enforce reckless or dangerous activity on the water by people in certain circumstances.
- 3.7 The Court's judgment also created uncertainty about the registration of PWC and similar craft on the UK Ship Register if they were not within scope of the definition of “ship” for the purposes of the MSA 1995.
- 3.8 The Department has previously consulted, in 2009, on proposals to close the gap created by the Court's judgment. However, responses suggested that the draft legislation included at that time required further development. Having completed a review of the position, and following further discussions with key stakeholders, the Department is now coming forward with revised proposals on which we would welcome your comments.

4. Policy Approach

Objectives and intended effects

- 4.1 The policy objective is to ensure the provisions of the MSA 1995 relating to conduct endangering ships, structures or individuals and safety are applicable to recreational watercraft and PWCs.
- 4.2 The intended effect will be to enable enforcement authorities to bring prosecutions of both the users of such watercraft, if they carry out dangerous activity on the water, jeopardising the safety of other people or property, and their owners, if they fail to prevent it.
- 4.3 Enhancing existing enforcement measures through national legislation has the potential to act as a deterrent to those who might otherwise use recreational watercraft and PWCs in a dangerous manner. The ultimate aim of the legislation is to reduce the number of accidents resulting in fatalities, injuries or damage to property and incidents where PWCs, in particular, are used in an unsafe manner.
- 4.4 A further policy objective is to clarify the legal position of existing, and future registrations, of recreational watercraft and PWCs on the UK Ship Register. Registration, which will remain voluntary, provides evidence of ownership. This is particularly important if the owner wishes to use their watercraft overseas, for example for competition purposes, since the main benefit of registration is to prove vessel nationality.

Options

- 4.5 Four options have been considered and tested against these objectives:

Option 1 – Do nothing

- 4.6 Although enforcement powers already exist, these are limited to managed waters if byelaws or harbour directions are in place or in circumstances where there has been, for example, loss of life. Without new national legislation there would continue to be a gap whereby enforcement powers for PWC riders and users of other similar watercraft may not be available depending on the circumstances and location of the misuse. With increased numbers of, and more powerful, PWCs being used in our waters and more instances of misuse being reported, this gap needs to be filled to ensure enforcement authorities can take action if necessary.

- 4.7 There remains concern amongst enforcement authorities and within the sector that the Court's ruling has limited their ability to deal with irresponsible and dangerous activity by some watercraft users. Those on PWCs and similar craft who injure people or damage property might, as a result, escape prosecution in circumstances where similar activities involving ships would not. Self-regulation, training and awareness raising of the risks and dangers of misuse has not, so far, abated the numbers of incidents occurring. Doing nothing therefore offers no opportunity to improve the current situation.

Option 2 – Introduce new primary legislation

- 4.8 This option would require introducing a new Act of Parliament setting out a specific regime for the regulation of recreational watercraft and PWCs. Whilst this option may be superficially attractive, enabling new and bespoke provisions to be crafted for watercraft, it would take significantly longer to develop, consult and bring any new legislation into force. By establishing a separate regime this option would also create a disparity between the legislation, rules and offences for different vessels in use on the water. This could, potentially, cause confusion within enforcement authorities.
- 4.9 The Department's view is that recreational watercraft and PWCs should be brought within scope of existing merchant shipping legislation to ensure that there is consistency and parity across all ships, recreational watercraft and PWCs in the United Kingdom. The legislation, rules and offences are already well known and understood within the sector, since they were thought to apply before 2005, and existing guidance can be updated to take account of the new provisions.

Option 3 – Legislation under the Railways and Transport Safety Act 2003 (preferred)

- 4.10 Make legislation under section 112 of the Railways and Transport Safety Act (RTSA) 2003 to extend the relevant provisions of the MSA 1995, and related regulations, to encompass recreational watercraft and PWCs. This is the Department's preferred option.
- 4.11 Specifically, section 112 of the RTSA 2003 empowers the Secretary of State to provide, by order, for a shipping provision to apply in relation to specified things which are used, navigated or situated wholly or partly in water and to amend any provision which defines ship, vessel or boat. The draft Order at **Annex A** uses these powers to ensure all PWCs, and other recreational watercraft which may not otherwise be "used in navigation" given the Court's judgment, into scope.
- 4.12 This is the most efficient way to bring recreational watercraft and PWCs within scope without affecting the significant amount of merchant shipping and safety legislation already in place and is in line with Government's commitment to Better Regulation.
- 4.13 More detail on the specific proposals and what PWCs and other watercraft would be in scope can be found in **Section 3** but, in summary, those aspects of the MSA 1995 which would be amended to widen applicability are:

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- **Offences:** applying the offence of conduct endangering ships, structures or individuals regardless of whether the watercraft involved was seagoing or the master was employed;
- **Unsafe operation:** making watercraft owners liable for unsafe operation;
- **Detention:** powers to enable enforcement authorities to detain unsafe watercraft;
- **Health & Safety:** applying relevant safety regulations made under the MSA 1995 in a way that is appropriate and proportionate, and enabling future regulations to be made specifically for watercraft if required; and
- **Registration:** to facilitate voluntary registration of watercraft on the UK Ship Register.

4.14 The proposals will also bring PWCs and other watercraft within scope of the provisions of the **Harbours Act 1964** which uses the same definition of “ship” as the MSA 1995. The Department anticipates that this will further assist, for example, harbour authorities in developing Harbour Directions to assist in the effective management of their waters.

Option 4 – Amend the MSA 1995 definition of “ship”

4.15 This option would introduce a direct amendment to the definition of “ship” under section 313 of the MSA1995 to widen its scope to cover all descriptions of watercraft.

4.16 The current definition of ship has been established for over a century and provides that “ship includes every description of vessel used in navigation”. In rejecting this option, the Department has considered that a direct amendment would entail having to consider the effect on all existing merchant shipping legislation which uses that definition and otherwise already works well in practice.

4.17 Given the large number of instruments, history, detailed and technical nature of many of these provisions, any move in this direction could quite easily have unforeseen and unintended consequences. There would also be a significant cost implication to the public purse in the bureaucratic process of reviewing vast swathes of existing legislation and making potentially complicated amendments or exclusions where applicability might not be suitable for recreational watercraft and PWCs.

5. The proposals

Aims & current position

- 5.1 The aim of the draft Merchant Shipping (Watercraft) Order (at **Annex A**) is to bring PWCs, recreational and other descriptions of watercraft within the scope of relevant provisions of the MSA 1995 and the Harbours Act 1964. The key impacts will be to:
- enable enforcement authorities to prosecute the owners and users of watercraft where these endanger ships, other watercraft, structures or individuals;
 - extend relevant safety regulations so that they apply to all watercraft; and
 - enable owners to voluntarily register all watercraft should they wish to do so.
- 5.2 Please note that the legal powers available to the Department to deliver new legislation in this area are limited to the application of provisions already made in relation to ships to watercraft.
- 5.3 By subjecting all watercraft to these existing requirements, this policy has the potential to act as a deterrent to those who might otherwise use watercraft in a reckless and inappropriate manner and aims to reduce the number of accidents resulting in personal injury or damage to property.
- 5.4 These proposals do not include any change to, or variation of, existing byelaw and harbour direction-making powers. These already enable local and harbour authorities to regulate the activities of vessels, including watercraft, to reflect local needs and specific circumstances within the waters they manage. Further advice on the use of these powers, and non-statutory options, for the effective management of PWCs in particular, has been produced by the Personal Watercraft Partnership¹.

Question 1: Is new legislation necessary in this area?

- 5.5 There are approximately 14-16,000 available PWCs in the UK with about 1,200 new craft arriving each year. Their life expectancy is about 8 to 10 years. Over 90 per cent of new PWCs are sit-on craft with the remaining mainly used for organised racing. The average age of an owner is 35 and the majority of craft are 2/3 seater. In the last 5 years, over 19,000 PWC users have completed the Royal Yachting Association's (RYA's) PWC Proficiency Course. Statistics suggest that there are over 300,000 PWC users who enjoy this activity in the UK on a regular basis.

¹ Available from https://pwp.org.uk/wp-content/uploads/2017/03/MPW_Jan08.pdf.

- 5.6 Although the riding of PWCs is, in the majority of cases, conducted sensibly and safely the number of serious incidents involving watercraft has been increasing including fatal accidents. Over the past 10 years there have been 11 fatalities involving PWCs noting that not all of these were related to incidents involving other water users.
- 5.7 Anecdotal evidence suggests that the number of lower-level, social nuisance and noise, complaints are also increasing in line with the availability and popularity of PWCs, and other, powered watercraft.

Question 2: Are the personal watercraft ownership and accident figures quoted above an accurate representation? NB: If you provide alternative figures, please quote the source and include evidence of their reliability.

- 5.8 The rest of this section explains each of the individual provisions (articles) in the draft Merchant Shipping (Watercraft) Order at **Annex A**. To assist understanding, Keeling Schedules (which provide an indication how any modifications will look once inserted into the relevant parent legislation), have been provided at **Annex B**.

Article 3 – Definitions

- 5.9 The current definition of ship in section 313(1) of the MSA 1995 “including every description of vessel used in navigation” has been established for over a century. As noted in **Section 4**, any direct amendment to this definition would entail having to consider the effect in all circumstances where that definition is used (which also extends beyond the MSA 1995).
- 5.10 Given the risks and challenges of a direct amendment, the Department considers that the introduction of a new definition of “watercraft” for the purposes of some of the provisions contained in the MSA 1995, Harbours Act 1964 and associated secondary legislation to be a preferable mechanism for achieving its intended aim. This approach provides legal clarity about which watercraft are within scope and what obligations the owners and users of those watercraft are under.
- 5.11 Using concepts already enshrined in similar merchant shipping legislation, **Article 3** of the draft Order (at **Annex A**) defines “watercraft” as:
- Any type of craft which –*
- (a) is situated wholly or partly in water,*
 - (b) is used, or is capable of being used, to carry one or more persons, and*
 - (c) is less than 24 metres in overall length.*
- 5.12 Exemptions are included for ships or fishing vessels, for which the MSA 1995 already makes separate provisions for safety; any unpowered craft which is less than 2.5 metres in length or any product such as an inflatable dingy designed or intended for use in play by children under 14 years old.
- 5.13 The Department believes that this definition will capture all relevant PWCs, recreational and other watercraft such as speedboats as well as larger unpowered craft and bring them within scope of the MSA 1995 and Harbours Act 1964. Should

any owner or user of a watercraft within this definition fail to comply with relevant safety requirements (see below) then they will, in future, be open to prosecution by the relevant enforcement authority.

- 5.14 **Article 4** of the draft Order ensures that existing definitions within the MSA 1995 will be used to properly interpret the other provisions of that Act to which the Order applies.

Question 3: Does the proposed definition of “watercraft” meet the intended aim of bringing all PWCs, recreational and other watercraft within scope of safety and misuse requirements? Are the intended exclusions appropriate?

Articles 5 & 6 – UK Ship Register

- 5.15 As well as the application of wider safety legislation to watercraft, the Court ruling also brought into question whether or not such vessels could be included on the UK Ship Register if they were not considered to be “ships” for the purposes of the MSA 1995.
- 5.16 Registration on the UK Ship Register is potentially beneficial to watercraft users since it can prove nationality, title (ownership) and the necessary security to obtain a marine mortgage. These issues are particularly important if an owner or user of a vessel wishes to undertake voyages overseas since some countries require proof of ownership and country of registration for watercraft to be used overseas. More information on the UK Register of Ships is available at www.ukshipregister.co.uk.
- 5.17 **Article 5** of the draft Order is designed to ensure that all “watercraft” can be registered on the UK Register of Ships by applying the relevant sections of the MSA 1995. **Schedule 1** of the draft Order applies the relevant provisions of the Merchant Shipping (Registration of Ships) Regulations 1993 with appropriate modifications. This will also clarify the legal standing of any watercraft already registered in the UK Ship Register prior to the Court case.
- 5.18 Registration in the UK Ship Registry is a voluntary process and a fee is payable. It is not the intention of these proposals that there should be any change to the current approach.

Question 4: Should the UK Ship Register should be open on a voluntary basis to watercraft owners?

Article 7 – Conduct endangering ships, structures or individuals

- 5.19 This will apply the legal obligations under section 58 of the MSA 1995 to any users or operators of watercraft including any legislation made under these powers.

5.20 They will enable prosecution of anyone who:

- (a) does any act which causes, or is likely to cause—
 - i. the loss or total destruction of, or serious damage to any other ship or structure, or
 - ii. the death of, or serious injury to, any person, or
- (b) omits to do anything required—
 - i. to preserve any persons on board his ship from serious injury, or
 - ii. to prevent a ship from causing the loss or destruction of, or serious damage to, any other ship or structure, or the death or, or serious injury to, any persons not onboard his ship.

5.21 The penalties for breaching these conditions are, on summary conviction, a fine not exceeding the statutory maximum (which is now unlimited) and, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

5.22 Please note that the offences within section 58 relating to the 'loss or destruction of, or serious damage to a ship or its machinery, navigation equipment or safety equipment' and 'preserving a ship or its machinery, navigation equipment or safety equipment from being lost, destroyed or seriously damaged', have not been applied to recreational watercraft and PWCs since they are not thought to be relevant although we would welcome your views.

Question 5: Should the provisions of section 58 of the MSA 1995 be applied to watercraft and, if so, which ones?

Article 8 – Power to detain dangerously unsafe watercraft

5.23 This will apply the powers under sections 95, 96, 97 and 284 of the MSA 1995 to watercraft as they currently apply in relation to ships enabling the appropriate enforcement authority to detain a dangerously unsafe watercraft.

5.24 The Department believes that, in cases where a watercraft is assessed as being dangerously unsafe, that the power of detention should be available to enforcement officials to prevent its use.

Question 6: Should the power of detention be available to enforcement officials to ensure dangerously unsafe watercraft are not used on the water?

Article 9 – Liability for unsafe operation of watercraft

5.25 This will apply the provisions of section 100 of the MSA 1995, which makes owners criminally liable for the unsafe operation of their ships, to the owners of all watercraft. This will place an obligation on owners of watercraft to ensure they take all

reasonable steps to ensure safe operation. In practice, the owner of any watercraft might be held to have committed an offence should they, for example, lend or hire out an unsafe craft to an untrained or unsuitable person in the event that the craft was involved in an accident. This may be particularly relevant to those who, for example, hire PWCs for use by the general public.

5.26 The penalties are, on summary conviction, a fine not exceeding £50,000 and, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

Question 7: Should the provisions of section 100 of the MSA 1995 be applied to the owners of watercraft and, if so, which ones?

Articles 10, 11 & 12 – Safety and health regulations

5.27 This will apply the provisions of section 85 and 86 of the MSA 1995 to watercraft, widening the Secretary of State's current powers to make regulations to ensure the safety and health of persons on board ships to include watercraft.

Question 8: Should the provisions of sections 85 and 86 of the MSA 1995 be applied to watercraft and, if so, which ones?

Article 12 – Application of the Harbours Act 1964

5.28 The Harbours Act 1964 uses the same definition of "ship" as the MSA 1995 and the Court ruling causes the same issues with the applicability of its provisions to watercraft. This will apply the same definition of "watercraft" to ensure consistency and that harbour directions or other measures introduced under the Harbours Act 1964 can also apply to watercraft.

Question 9: Should the same definition of "watercraft" be used for the purposes of the Harbours Act 1964?

Article 13 – Modifications to other merchant shipping legislation

5.29 A significant amount of secondary legislation has been made under the powers in the MSA 1995. **Schedule 2** of the draft Order ensures the following legislation will be applied, with appropriate modification, to recreational watercraft and PWCs:

- Merchant Shipping (Marine Equipment) Regulations 2016;

- Merchant Shipping (Distress Signals & Prevention of Collisions) Regulations 1996; and
- Merchant Shipping (EPIRB Registration) Regulations 2000.

Question 10: Should these modifications to incorporate watercraft within related merchant shipping legislation be made?

Devolved Administrations

5.30 Matters pertaining to maritime safety, including watercraft, are not devolved to the Scottish Parliament, Welsh or Northern Irish Assemblies. They remain a reserved matter and the proposed Merchant Shipping (Watercraft) Order (at **Annex A**) will therefore apply to England, Scotland, Wales and Northern Ireland.

Impact Assessment

5.31 The Department is committed to assessing and reducing, where possible, any legislative costs and burdens which may fall on business or charities. It is not envisaged that the introduction of the Merchant Shipping (Watercraft) Order will create any additional costs or burdens since they will only be applicable in cases where an owner or individual has not met legal requirements which were already thought to exist prior to the Court's ruling. It was similarly assumed that such watercraft were entitled to be registered on the UK Ship Register.

5.32 No Impact Assessment has, therefore, been produced because the perceived impact on business and charities is below the threshold required to trigger a full assessment. The new legislation is largely about the responsible behaviour of the owners and individuals who use watercraft and will restore the legal position that was generally thought to exist before 2005.

5.33 However, we would welcome your views on whether any unintended additional costs or burdens may be created by the proposals if these were to be applied to your organisation or business.

Question 11: Are there any significant new costs or administrative burdens which might be created as a result of the introduction of this legislation? What is your assessment of these?

Alcohol & Drug use

5.34 Although it is not directly related to the new legislation proposed in this consultation, the Department is interested in using this opportunity to understand views on the current position on alcohol and drug use within the watercraft community.

5.35 There is currently no limit for alcohol or drug use for recreational mariners and no indication, given the number of accidents and incidents where these substances are

a causal factor, that there is a significant problem. However, the Department keeps this position under review and would welcome any *documentary evidence* you might be able to provide on the position to inform future decision-making.

5.36 It is noted that the same powers that local and harbour authorities already have to control PWC and other watercraft usage within the waters they manage can be used to introduce measures controlling alcohol and drug use. Such provisions are already in place in many places and, in particular, in most harbours.

Question 12: What, if any, documentary evidence are you able to supply that alcohol or drug use among recreational mariners is leading to safety concerns or an increased number of accidents or incidents? Are you aware of any recent prosecutions for related offences?

What happens next?

5.37 A summary of responses, including intended next steps, will be published within three months of the consultation closing date at www.gov.uk/government/consultations/strengthening-enforcement-of-the-dangerous-use-of-recreational-and-personal-watercraft.

5.38 Subject to responses, the Department will look to introduce the new legislation as soon as possible.

5.39 If you have any questions about this consultation please contact maritimesafety@dft.gov.uk.

Annex A: Draft Order

STATUTORY INSTRUMENTS

[Year] No.

MERCHANT SHIPPING

The Merchant Shipping (Watercraft) Order

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State makes the following Order in exercise of the powers conferred by section 112(1)(a) and (c) and (3) of the Railways and Transport Safety Act 2003⁽²⁾.

In accordance with section 112(7)(c) of that Act the Secretary of State has consulted such organisations in the United Kingdom as appear to the Secretary of State to be representative of persons who will be affected by this Order.

PART 1

Introductory provisions

Citation, commencement, extend and application

1.—(1) This Order may be cited as the Merchant Shipping (Watercraft) Order [Year] and comes into force on [date].

(2) This Order extends, and applies in relation, to the whole of the United Kingdom.

Interpretation

2.—(1) In this Order—

“the 1995 Act” means the Merchant Shipping Act 1995⁽³⁾;

“applied shipping provision” means a provision applied by this Order including any modifications;

“watercraft” has the meaning given in article 3.

⁽²⁾ 2003 c. 20.

⁽³⁾ 1995 c. 21.

(2) Subject to the provisions of this Order and except in—

- (a) section 313 of the 1995 Act as applied by article 4(c);
- (b) section 8(1) of the 1995 Act as applied by article 5(a);
- (c) the Merchant Shipping (Registration of Ships) Regulations 1993⁽⁴⁾ as applied by Schedule 1;
- (d) a reference to a surveyor of ships or a surveyor general of ships,

a reference in an applied shipping provision to a ship is to be read as including a reference to a watercraft, and a reference to “ships” or “ship’s” is to be construed accordingly.

(3) Where an applied shipping provision refers to—

- (a) an enactment;
- (b) part of an enactment;
- (c) provision—
 - (i) contained in an enactment;
 - (ii) made under enabling powers contained in an enactment,

the reference is to be read as a reference to the enactment, part or provision as applied by this Order.

Meaning of “watercraft”

3.—(1) Subject to paragraph (2), “watercraft” means any type of craft (whether powered or unpowered) which—

- (a) is situated wholly or partly in or on water,
- (b) is used, or is capable of being used, to carry one or more persons, and
- (c) is less than 24 metres in overall length.

(2) “Watercraft” does not include—

- (a) a ship or fishing vessel within the meaning of those terms as defined in subsection (1) of section 313⁽⁵⁾ of the 1995 Act;
- (b) an unpowered craft which is less than 2.5 metres in overall length;
- (c) a product designed or intended for use in play—
 - (i) in shallow water (whether or not exclusively), and
 - (ii) by children under 14 years old.

Interpretation of the 1995 Act

4. The following provisions of the 1995 Act apply for the purposes of interpreting an applied shipping provision contained in that Act—

- (a) the following provisions of section 1 (British ships and United Kingdom ships)—
 - (i) subsection (1)(d), as if for “ship is a small ship other than a fishing vessel and” there were substituted “watercraft”;
 - (ii) the definition of “qualified owners” in subsection (2), as if “for the purposes of that paragraph; and” were omitted;
- (b) section 23 (interpretation of Part 2), except for the definition of “the private law provisions for registered ships” in subsection (1);
- (c) section 313 (definitions), as if in the definition of “foreign” for “neither a United Kingdom ship nor a small ship” there were substitute “not a United Kingdom ship or a watercraft or a small ship”—
- (d) section 313A⁽⁶⁾ (meaning of “qualifying foreign ship”).

⁽⁴⁾ S.I. 1993/3138.

⁽⁵⁾ Section 313 was amended by paragraph 19(2)(a) to (d) and (3) of the Merchant Shipping and Maritime Security Act 1997 (c. 28).

⁽⁶⁾ Section 313A was inserted by paragraph 20 of Schedule 6 to the Merchant Shipping and Maritime Security Act 1997, and it was amended by section 2(3) of the British Overseas Territories Act (c. 8).

PART 2

Registration of watercraft

Registration of watercraft: application of the 1995 Act

5. The following provisions of the 1995 Act apply in relation to watercraft as they apply in relation to ships—
- (a) section 8 (central register of British ships), as if after subsection (1) there were inserted—
“(1A) From the entry into force of the Merchant Shipping (Watercraft) Order 2021, the register of British ships maintained under subsection (1) is to include all registrations of watercraft in the United Kingdom.”;
 - (b) section 9 (registration of ships: basic provisions);
 - (c) section 10 (registration regulations);
 - (d) section 13 (status of certificate of registration);
 - (e) section 14 (offences relating to a ship’s British connection);
 - (f) subsection (3) of section 16 (private law provisions for registered ships and liability as owner);
 - (g) section 21 (disclosure of information relating to registration by other government departments);
 - (h) section 22 (forgery of documents: Scotland).

Registration of watercraft: application of the Merchant Shipping (Registration of Ships) Regulations 1993

6. Schedule 1 has effect.

PART 3

Safety of watercraft

Conduct endangering watercraft, ships, structures or individuals

7. Section 58 (conduct endangering ships, structures or individuals) applies in relation to watercraft as it applies in relation to ships as if it read—

- “58.—(1) This section applies to the user or operator of a watercraft within United Kingdom waters.
- (2) If a person to whom this section applies, while in or on the watercraft or in its immediate vicinity—
- (a) does any act which is likely to cause—
 - (i) the loss or destruction of or serious damage to any other watercraft or any ship or structure, or
 - (ii) the death of or serious injury to any person, or
 - (b) omits to do anything required—
 - (i) to preserve any person in or on the watercraft from death or serious injury, or
 - (ii) to prevent the watercraft from causing the loss or destruction of or serious damage to any other watercraft or any ship or structure, or death of or serious injury to any person not on board the watercraft,

and either of the conditions specified in subsection (3) below is satisfied with respect to that act or omission, the person is (subject to subsections (6) and (7) below) guilty of an offence.

- (3) Those conditions are—
- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
 - (b) that the person who committed the act or made the omission was under the influence of drink or a drug at the time of the act or omission.
- (4) If a person to whom this section applies—
- (a) discharges any of their duties or performs any other function in relation to the operation of the watercraft or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as mention in subsection (2)(a) above, or

- (b) fails to discharge any of their duties, or to perform any such function, properly to such extent as to cause, or to be likely to cause, any of those things,

the person is (subject to subsections (6) and (7) below) guilty of an offence.

(5) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(6) In proceedings for an offence under this section it is a defence to prove—

- (a) in the case of an offence under subsection (2) above where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
- (b) in the case of an offence under subsection (2) above, that at the time of the act or omission alleged the accused was under the influence of a drug taken for medical purposes and either—
 - (i) the accused took the drug on medical advice and complied with any directions given as part of that advice,
 - (ii) the accused had no reason to believe that the drug might have the influence it had;
- (c) in the case of an offence under subsection (4) above, that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
- (d) in the case of an offence under either of those subsections—
 - (i) that the accused could have avoided committing the offence only by disobeying a lawful command, or
 - (ii) that in all the circumstances, the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by them.

(7) Where the watercraft is registered under the law of any country outside the United Kingdom, no proceedings for any offence under this section are to be instituted against any person—

- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
- (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.”

(8) In this section—

“breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;

“duty” means a duty of care however it arises, but only to the extent that the duty is owed in connection with the operation of the watercraft; and

“structure” means any fixed or moveable structure (of whatever description) other than a ship or watercraft.”.

Power to detain dangerously unsafe watercraft

8.The following provisions of the 1995 Act apply in relation to watercraft as they apply in relation to ships—

- (a) section 95⁽⁷⁾ (power to detain dangerously unsafe ship) of the 1995 Act, as if—
 - (i) in subsection (2) the reference to United Kingdom ships includes a reference to watercraft whether unregistered or registered in the United Kingdom;
 - (ii) in the introductory words to subsection (3) the reference to the master of the ship includes a reference to the owner of the watercraft;
- (b) section 96⁽⁸⁾ (references of detention notice to arbitration);

⁽⁷⁾ Section 95 was amended by paragraph 2 of Schedule 1 to the Merchant Shipping and Maritime Security Act 1997.

⁽⁸⁾ Section 96 was amended by paragraph 1 of Schedule 4 to the Arbitration Act 1996 (c. 23) and paragraph 26 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).

- (c) section 97 (compensation in connection with invalid detention of ship);
- (d) section 284⁽⁹⁾ (enforcing detention of ship), as if each reference to a master of a ship includes a reference to the operator of a watercraft.

Owner liable for unsafe operation of watercraft

9. Section 100⁽¹⁰⁾ (owner liable for unsafe operation of ship) of the 1995 Act applies in relation to watercraft as it applies in relation to ships as if it read—

“**100.**—(1) It is the duty of the owner of a watercraft to which this section applies to take all reasonable steps to secure that the watercraft is operated in a safe manner.

(2) This section applies to any watercraft within United Kingdom waters.

(3) If the owner of a watercraft to which this section applies fails to discharge the duty imposed by subsection (1) above, the owner is liable—

(a) on summary conviction, to a fine;

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

(4) Where any such watercraft is managed, either wholly or in part, by a person (“P”) other than the owner under the terms of an arrangement (whether or not for reward) under which the operational safety (whether or not among other things) is to be maintained P, any reference to the owner of the watercraft in subsection (1) or (3) above includes a reference to P.

(5) No proceedings for an offence under this section are to be instituted—

(a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;

(b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions in Northern Ireland.”.

Safety and health regulations

10. Section 85⁽¹¹⁾ (safety and health on ships) of the 1995 Act applies in relation to watercraft as it applies in relation to ships.

Safety and health regulations: supplementary provision

11.—(1) Section 86⁽¹²⁾ (provisions supplementary to section 85: general) of the 1995 Act applies in relation to watercraft safety regulations as it applies in relation to ship safety regulations.

(2) In paragraph (1)—

(a) “ship safety regulations” means regulations made in relation to ships under section 85 of the 1995 Act;

(b) “watercraft safety regulations” means regulations made in relation to watercraft under section 85 of the 1995 Act as applied by article 9.

⁽⁹⁾ Section 284 was substituted by S.I. 2015/664 and amended by paragraph 5 of Schedule 1 to the Merchant Shipping and Maritime Security Act 1997.

⁽¹⁰⁾ Section 100(3) was amended by paragraph 27(6) of Schedule 4 to S.I. 2015/664.

⁽¹¹⁾ Section 85 was amended by section 8(2), (3), (4)(b) and (5) of the Merchant Shipping and Maritime Security Act 1997; section 2(3) of the British Overseas Territories Act 2002; and section 5(4) of the Health Act 2006 (c. 28).

⁽¹²⁾ Section 86 was amended by section 8(6) of the Merchant Shipping and Maritime Security Act 1997.

PART 4

Harbour directions in relation to watercraft

Application of the Harbours Act 1964

12.—(1) The following provisions of the Harbours Act 1964⁽¹³⁾ apply in relation to watercraft as they apply in relation to ships—

- (a) section 40A (directions), as if for “the master of” were substituted “any person responsible for”;
- (b) section 40B (procedure);
- (c) section 40C (enforcement), as if for “The master of” were substitute “Any person responsible for”;
- (d) section 40D (supplemental).

PART 5

Miscellaneous provisions

Appointment of inspectors and surveyors

13.Section 256 (appointment of inspectors and surveyors) applies in relation to the inspection and survey of watercraft as it applies in relation to the inspection and survey of ships as if subsections (6) to (8) were omitted.

Powers to make subordinate legislation under the 1995 Act

14. The following provisions of the 1995 Act apply for the purposes of any power to make subordinate legislation in relation to watercraft as they apply for the purposes of any power to make subordinate legislation in relation to ships—

- (a) the following subsections of section 306⁽¹⁴⁾ (regulations, rules and orders, etc.)—
 - (i) subsection (1), as if it read—

“(1) Any power of the Secretary of State to make subordinate legislation under this Act is exercisable by statutory instrument.”;
 - (ii) subsection (2), as if it read—

“(2) Any subordinate legislation made under any provision of this Act is subject to annulment in pursuance of a resolution of either House of Parliament.”;
- (b) section 306A⁽¹⁵⁾ (power to make ambulatory references to international instruments).

Application of other shipping provisions to watercraft

15. Schedule 2 has effect.

Signatory text

Date

Name
Parliamentary Under Secretary of State
Department for Transport

⁽¹³⁾ 1964 c. 40. Sections 40A to D were inserted by section 5(1) of the Marine Navigation Act 2013 (c. 23). Amendments to section 40A(4)(a) were made in relation to Wales by section 30(4) of the Wales Act 2017 (c. 4).

⁽¹⁴⁾ Section 306 was amended by paragraph 18(2), (3) and (5) of Schedule 6 to the Merchant Shipping and Maritime and Security Act 1997; section 1(3) of the Wreck Removal Convention Act 2011 (c. 8); and regulation 3(1)(c) of S.I. 1998/2241.

⁽¹⁵⁾ Section 306A was inserted by section 106 of the Deregulation Act 2015 (c. 20).

SCHEDULE 1

Article 6

Application of the Merchant Shipping (Registration of Ships) Regulations 1993 to watercraft

Registration of watercraft: application of the Merchant Shipping (Registration of Ships) Regulations 1993

1.—(1) The following provisions of the Merchant Shipping (Registration of Ships) Regulations 1993⁽¹⁶⁾ apply in relation to watercraft as they apply in relation to ships.

(2) Regulation 2 (the Register), as if in the introductory words of paragraph (1), for “section 1(1) and (2)” there were substituted “section 8(1), (1A) and (2)”.

(3) Regulation 5 (registration on only one Part of the Register).

(4) Regulation 6 (trusts not to be entered).

(5) Regulation 20 (form of application), as if paragraph (2) were omitted.

(6) Regulation 21 (the applicant).

(7) Regulation 24 (applications by bodies corporate).

(8) Regulation 88 (qualification and entitlement to be registered as a small ship on Part III of the Register).

(9) Regulation 89 (persons qualified to be owners of small ships to be registered on Part III of the Register).

(10) Regulation 90 (British connection).

(11) Regulation 91 (disapplication of Schedule 1 to the Act in respect of small ships).

(12) Regulation 92 (applications), as if paragraph (c) and (ca) were omitted.

(13) Regulation 93 (details to be registered and refusal), as if for paragraph (1) there were substituted—

“(1) The Registrar must register a watercraft and record on the register the details mentioned in paragraph (1A) if the Registrar is satisfied in respect of an application to register the watercraft that—

(a) the watercraft is eligible to be registered,

(b) the particulars of the watercraft furnished in respect of the application are correct,

(c) the ownership of the craft has been sufficiently established, and

(d) the relevant requirements of these Regulations have been complied with.

(1A) The details referred to in paragraph (1) are—

(a) the registration number of the watercraft;

(b) the date of registration;

(c) the date of expiry of the registration in accordance with regulation 96;

(d) a description of the watercraft;

(e) the overall length of the watercraft;

(f) the name and address of every owner of the watercraft.”;

(14) Regulation 94 (certificate of registry).

(15) Regulation 95 (marking).

(16) Regulation 96 (period of registration).

(17) Regulation 97 (renewal).

(18) Regulation 98 (notification of changes to ownership etc.), as if in paragraph (2) the words “the name and” were omitted.

(19) Regulation 99 (supplementary information—production of ship).

(20) Regulation 100 (termination of registration).

(21) Regulation 103 (documents not in the English language to be accompanied by a translation).

⁽¹⁶⁾ S.I. 1993/3138, amended by S.I. 1994/541, 1994/1328, 1997/2971, 1998/1915 and 2976, 1999/3206, 2011/1043, 2012/1809, 2017/879, 2018/1221 and 1299, and 2019/509 and 746.

- (22) Regulation 104 (witnessing of documents).
- (23) Regulation 105 (dispensing with declarations).
- (24) Regulation 105A (copies of documents).
- (25) Regulation 106 (supplementary information).
- (26) Regulation 107 (fees).
- (27) Regulation 108 (duplicate certificates), as if the reference to “the master” in paragraph (3)(b) includes a reference to “the owner”.
- (28) Regulation 109 (custody of certificate).
- (29) Regulation 110 (surrender of certificate on termination or expiry of registration).
- (30) Regulation 111 (dispensing with production of certificate).
- (31) Regulation 113 (removal of marks on cessation of registration).
- (32) Regulation 114 (offences), as if the words “or master” in paragraph (2) were omitted.

Interpretation of the Merchant Shipping (Registration of Ships) Regulations 1993

- 2.—**(1) For the purposes of interpreting the provisions listed in paragraph 1—
- (a) each reference to a ship in regulation 6, 92, 93(2), 95, 96, 98 to 100, 106, 108, 109, 110, 111, 113 and 114 is to be read as including a reference to a watercraft;
 - (b) the definitions of terms contained in the following provisions apply—
 - (i) the provisions of the 1995 Act listed in article 4(1) of this Order (except where the same term is defined in regulation 1(2) of the Merchant Shipping (Registration of Ships) Regulations 1993);
 - (ii) regulation 1(2) of the Merchant Shipping (Registration of Ships) Regulations 1993 with the modifications in sub-paragraph (2).
- (2) Regulation 1(2) of the Merchant Shipping (Registration of Ships) Regulations 1993 is to be read as if—
- (a) in the definition of “the Act” for “Merchant Shipping (Registration, etc.) Act 1993” there were substituted “Merchant Shipping Act 1995”;
 - (b) in the definition of “certificate of registry” the reference to a ship includes a reference to a watercraft;
 - (c) in the definition of “fishing vessel” for “vessel within the meaning of paragraph 2(1)(c) of Schedule 4 to” there were substituted “fishing vessel as defined in section 313(1) of”;
 - (d) in the definition of “owner” at the end there were inserted—

“and in relation to watercraft means a person able to satisfy the Registrar that they are the owner”,
 - (e) in the definition of “the Register” for “established under section 1” there were substituted “maintained under section 8”;
 - (f) in the definition of “the Registrar” for “9(2)” there were substituted “8(2)”;
 - (g) for the definition of “small ship” there were substituted—

““small ship” means—

 - (a) a watercraft, or
 - (b) a ship which is less than 24 metres in overall length, which is, or is applying to be, registered under Part 11;”.

SCHEDULE 2

Article 14

Application of other shipping provisions to watercraft

Application of the Merchant Shipping (Marine Equipment) Regulations 2016

1.—(1) The following provisions of the Merchant Shipping (Marine Equipment) Regulations 2016⁽¹⁷⁾ apply in relation to equipment placed in or on board a watercraft as they apply in relation to equipment placed on board a ship.

(2) Regulation 5 (requirements for equipment), as if the reference to a domestic passenger ship in the introductory words in paragraph (2) includes a reference to a watercraft.

(3) Regulation 6 (exemptions).

(4) Regulation 20 (obligations of a manufacturer).

(5) Regulation 21 (obligations of an importer).

(6) Regulation 23 (restricting, suspending or withdrawing UK conformity approval).

(7) Regulation 25 (defective equipment), as if the reference in paragraph (4)(a) to the ship's crew includes a reference to the watercraft's operator.

(8) Regulation 26 (offences and penalties).

(9) Regulation 27 (powers to detain), as if—

(a) the following were omitted—

(i) sub-paragraph (b) of paragraph (1);

(ii) the words “or a direction issued under regulation 10(2)” in each of sub-paragraphs (a) and (b) of paragraph (3);

(b) in the introductory words to paragraph (3), the reference to the master of the ship included a reference to the owner of the watercraft.

Application of the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996

2.—The Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996⁽¹⁸⁾ apply in relation to watercraft as they apply in relation to ships, as if—

(a) in paragraph (1)(a) of regulation 2 (application)—

(i) the reference to United Kingdom ships includes a reference to watercraft registered in the United Kingdom under the Merchant Shipping Act 1995, and

(ii) the reference to other ships includes a reference to other watercraft;

(b) the reference in regulation 5 (exemptions) to any ship or description of ships includes a reference to any watercraft or description of watercraft;

(c) any reference to a master includes a reference to any person for the time being operating of a watercraft.

Application of the Merchant Shipping (EPIRB Registration) Regulations 2000

3.—(1) The following provisions of the Merchant Shipping (EPIRB Registration) Regulations 2000⁽¹⁹⁾ apply in relation to watercraft as they apply in relation to ships.

(2) Regulation 4 (competent authority).

(3) Regulation 5 (requirement for EPIRBs to be registered), as if—

(a) in paragraph (1) the reference to every United Kingdom ship includes a reference to every watercraft in United Kingdom waters;

(b) for paragraph (2) there were substituted—

⁽¹⁷⁾ S.I. 2016/1025, amended by S.I. 2019/470 and 1304.

⁽¹⁸⁾ S.I. 1996/75, as amended by S.I. 2004/302 and 2015/664

⁽¹⁹⁾ S.I. 2000/1850.

“(2) The registered particulars referred to in paragraph (1) are the following—

- (a) EPIRB identification code (if applicable) and its homing frequency;
- (b) country where the watercraft is registered;
- (c) brief description of the watercraft, including its type and identifying marks;
- (d) name, address, telephone and (if applicable) telefax number of emergency contact person ashore;
- (e) alternative 24-hour emergency contact telephone number (alternative contact ashore);
- (f) capacity of watercraft for carrying persons;
- (g) date of last modification of registered particulars.”.

(4) Regulation 6 (change in registered particulars).

(5) Regulation 7 (offences), as if the references to the owner and operator of the ship in paragraphs (1) and (2) included reference to the owner (but not the operator) of the watercraft.

(6) Regulation 8 (defence).

Annex B: Keeling Schedules

The following Keeling Schedules, which provide an informal indication of the amendments which the draft Order at **Annex A** will make in the context of the drafting of the original legislation, are provided for information only. They should not be considered as authoritative or definitive and reference should always be made back to the original legislation.

NB: Since the number of modifications made to the **Merchant Shipping (Marine Equipment) Regulations 2016** are small they are not included below.

Key:

- Red text - **insertions** made by the draft Order
- [Green square bracketed text] - **modifications** made by the draft Order
- ~~Blue strikethrough text~~ - **deletions** made by the draft Order

Merchant Shipping Act 1995

1.— British ships and United Kingdom ships.

(1) A ship [including a watercraft] is a British ship [including a watercraft] if—

- ~~(a) the ship is registered in the United Kingdom under Part II; or~~
- ~~(b) the ship is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308; or~~
- ~~(c) the ship is registered under the law of a relevant British possession; or~~
- ~~(d) the ship is a small ship other than a fishing vessel and watercraft—~~

- (i) is not registered under Part II, but
- (ii) is wholly owned by qualified owners, and
- (iii) is not registered under the law of a country outside the United Kingdom.

(2) For the purposes of subsection (1)(d) above—

“qualified owners” means persons of such description qualified to own British ships [including watercraft] as is prescribed by regulations made by the Secretary of State ~~for the purposes of that paragraph; and~~

“small ship” means a ship less than 24 metres in length (“length” having the same meaning as in the tonnage regulations).

~~(3) A ship is a “United Kingdom ship” for the purposes of this Act (except section 85 and 144(3)) if the ship is registered in the United Kingdom under Part II (and in Part V “United Kingdom fishing vessel” has a corresponding meaning).~~

8.— Central register of British ships.

(1) There shall continue to be a register of British ships for all registrations of ships in the United Kingdom.

(1A) From the entry into force of the Merchant Shipping (Watercraft) Order 2021, the register of British ships maintained under subsection (1) is to include all registrations of watercraft in the United Kingdom.

(2) The register shall be maintained by the Registrar General of Shipping and Seamen as registrar.

(3) The Secretary of State may designate any person to discharge, on behalf of the registrar, all his functions or such of them as the Secretary of State may direct.

(4) The Secretary of State may give to the registrar directions of a general nature as to the discharge of any of his functions.

(5) The register shall be so constituted as to distinguish, in a separate part, registrations of fishing vessels and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships [including watercraft].

(6) The register shall be maintained in accordance with registration regulations and the private law provisions for registered ships [including watercraft] and any directions given by the Secretary of State under subsection (4) above.

(7) The register shall be available for public inspection.

9.— Registration of ships: basic provisions.

(1) A ship [including a watercraft] is entitled to be registered if—

- (a) it is owned, to the prescribed extent, by persons qualified to own British ships [including watercraft]; and
- (b) such other conditions are satisfied as are prescribed under subsection (2)(b) below;

(and any application for registration is duly made).

(2) It shall be for registration regulations—

- (a) to determine the persons who are qualified to be owners of British ships [including watercraft], or British ships [including watercraft] of any class or description, and to prescribe the extent of the ownership required for compliance with subsection (1)(a) above;
- (b) to prescribe other requirements designed to secure that, taken in conjunction with the requisite ownership, only ships [including watercraft] having a British connection are registered.

(3) The registrar may, nevertheless, if registration regulations so provide, refuse to register or terminate the registration of a ship [including a watercraft] if, having regard to any relevant requirements of this Act, he considers it would be inappropriate for the ship [including a watercraft] to be or, as the case may be, to remain registered.

- (4) The registrar may, if registration regulations so provide, register a fishing vessel notwithstanding that the requirement of subsection (1)(a) above is not satisfied in relation to a particular owner of a share in the vessel if the vessel otherwise has a British connection.
- (5) Where a ship [including a watercraft] becomes registered at a time when it is already registered under the law of a country other than the United Kingdom, the owner of the ship [including a watercraft] shall take all reasonable steps to secure the termination of the ship's [including a watercraft's] registration under the law of that country.
- (6) Subsection (5) above does not apply to a ship [including a watercraft] which becomes registered on a transfer of registration to the register from a relevant British possession.
- (7) Any person who contravenes subsection (5) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) In this section “*the relevant requirements of this Act*” means the requirements of this Act (including requirements falling to be complied with after registration) relating to—
- (a) the condition of ships [including watercraft] or their equipment so far as relevant to their safety or any risk of pollution; and
 - (b) the safety, health and welfare of persons employed or engaged in them.
- (9) In this Part references to a ship's [including a watercraft's] having a British connection are references to compliance with the conditions of entitlement imposed by subsection (1)(a) and (b) above and “declaration of British connection” is to be construed accordingly.

10.— Registration regulations.

- (1) The Secretary of State shall by regulations (to be known as registration regulations) make provision for and in connection with the registration of ships [including watercraft] as British ships [including watercraft].
- (2) Without prejudice to the generality of subsection (1) above, registration regulations may, in particular, make provision with respect to any of the following matters—
- (a) the persons by whom and the manner in which applications in connection with registration are to be made;
 - (b) the information and evidence (including declarations of British connection) to be provided in connection with such applications and such supplementary information or evidence as may be required by any specified authority;
 - (c) the shares in the property in, and the numbers of owners (including joint owners) of, a ship [including a watercraft] permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship [including a watercraft] or to be so registered in specified circumstances;
 - (d) the issue of certificates (including provisional certificates) of registration, their production and surrender;
 - (e) restricting and regulating the names of ships [including watercraft] registered or to be registered;

- (f) the marking of ships [including watercraft] registered or to be registered, including marks for identifying the port to which a ship [including watercraft] is to be treated as belonging;
- (g) the period for which registration is to remain effective without renewal;
- (h) the production to the registrar of declarations of British connection or other information relating thereto, as respects registered ships [including watercraft], at specified intervals or at his request;
- (i) the survey and inspection of ships [including watercraft] registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;
- (j) the refusal, suspension and termination of registration in specified circumstances;
- (k) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
- (l) the charging of fees in connection with registration or registered ships [including watercraft];
- (m) the transfer of the registration of ships [including watercraft] to and from the register from and to registers or corresponding records in countries other than the United Kingdom;
- (n) inspection of the register;
- (o) any other matter which is authorised or required by this Part to be prescribed in registration regulations;

but no provision determining, or providing for determining, the fees to be charged or prescribing any arrangements for their determination by other persons shall be made without the approval of the Treasury.

(3) Registration regulations may—

- (a) make different provision for different classes or descriptions of ships [including watercraft] and for different circumstances;
- (b) without prejudice to paragraph (a) above, make provision for the granting of exemptions or dispensations by the Secretary of State from specified requirements of the regulations, subject to such conditions (if any) as he thinks fit to impose; and
- (c) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient, including provision authorising investigations and conferring powers of inspection for verifying the British connection of a ship [including a watercraft].

(4) Registration regulations—

- (a) may make provision for the registration of any class or description of ships [including watercraft] to be such as to exclude the application of the private law provisions for registered ships [including watercraft] and, if they do, may

regulate the transfer, transmission or mortgaging of ships [including watercraft] of the class or description so excluded;

- (b) may make provision for any matter which is authorised or required by those provisions to be prescribed by registration regulations; and
- (c) shall make provision precluding notice of any trust being entered in the register or being receivable by the registrar except as respects specified classes or descriptions of ships [including watercraft] or in specified circumstances.

(5) Registration regulations may create offences subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale.

(6) Registration regulations may provide for—

- (a) the approval of forms by the Secretary of State; and
- (b) the discharge of specified functions by specified authorities or persons.

(7) Registration regulations may provide for any of their provisions to extend to places outside the United Kingdom.

(8) Any document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by the registrar shall be evidence (and, in Scotland, sufficient evidence) of the matters stated in the document.

(9) Registration regulations may provide that any reference in any other Act or in any instrument made under any other Act to the port of registry or the port to which a ship [including a watercraft] belongs shall be construed as a reference to the port identified by the marks required for the purpose by registration regulations.

13. Status of certificate of registration.

The certificate of registration of a British ship [including a watercraft] shall be used only for the lawful navigation of the ship [including a watercraft], and shall not be subject to detention to secure any private right or claim.

14.— Offences relating to a ship's British connection.

(1) Any person who, in relation to any matter relevant to the British connection of a ship [including a watercraft] —

- (a) makes to the registrar a statement which he knows to be false or recklessly makes a statement which is false; or
- (b) furnishes to the registrar information which is false,

shall be guilty of an offence.

(2) If at any time there occurs, in relation to a registered ship [including a watercraft], any change affecting the British connection of the ship [including a watercraft] the owner of the

ship [including a watercraft] shall, as soon as practicable after the change occurs, notify the registrar of that change; and if he fails to do so he shall be guilty of an offence.

(3) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the British connection of a ship [including a watercraft] and which he has been required to produce to the registrar in pursuance of registration regulations shall be guilty of an offence.

(4) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(5) This section applies to things done outside, as well as to things done within, the United Kingdom.

16.— Private law provisions for registered ships and liability as owner.

~~(1) Schedule 1 (which makes provision relating to the title to, and the registration of mortgages over, ships) shall have effect.~~

~~(2) Schedule 1 does not apply in relation to ships which are excluded from its application by registration regulations under section 10(4)(a).~~

(3) Where any person is beneficially interested, otherwise than as mortgagee, in any ship [including a watercraft] or share in a ship [including a watercraft] registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be liable to any pecuniary penalties imposed by or under this Act or any other Act on the owners of registered ships [including a watercraft].

~~(4) Where the registration of any ship terminates by virtue of any provision of registration regulations, the termination of that registration shall not affect any entry made in the register so far as relating to any undischarged registered mortgage of that ship or of any share in it.~~

~~(5) In subsection (4) above “registered mortgage” has the same meaning as in that Schedule.~~

~~(6) In this Part “the private law provisions for registered ships” means the provisions of Schedule 1 and registration regulations made for the purposes of that Schedule or the provisions of registration regulations made under section 10(4)(a).~~

21.— Disclosure of information relating to registration by other government departments.

(1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall preclude any of the persons mentioned in subsection (2) below from disclosing—

- (a) to the Secretary of State, or
- (b) to the registrar, or

(c) to an authorised officer of the Secretary of State,

information for the purpose of assisting the Secretary of State in the performance of his functions under this Part.

(2) The persons referred to in subsection (1) above are—

- (a) the Minister of Agriculture, Fisheries and Food,
- (b) the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland,
- (c) the Department of Agriculture for Northern Ireland,
- (d) the Commissioners of Customs and Excise, and
- (e) an authorised officer of any of the persons falling within paragraphs (a) to (d) above.

(3) Information obtained by any person in pursuance of subsection (1) above shall not be disclosed by him to any other person except where the disclosure is made—

- (a) to a person to whom the information could have been disclosed by any of the persons mentioned in subsection (2) above in accordance with subsection (1) above, or
- (b) for the purposes of any legal proceedings arising out of this Part.

23.— Interpretation.

(1) In this Part—

“*British connection*” and “*declaration of British connection*” have the meaning given in section 9(9);

~~“the private law provisions for registered ships” has the meaning given in section 16;~~

“*the register*” means the register of British ships [including watercraft] maintained for the United Kingdom under section 8 and “*registered*” (except with reference to the law of another country) is to be construed accordingly; and

“*the registrar*” means the Registrar General of Shipping and Seamen in his capacity as registrar or, as respects functions of his being discharged by another authority or person, that authority or person.

(2) Where, for the purposes of any enactment the question arises whether a ship [including a watercraft] is owned by persons qualified to own British ships [including watercraft], the question shall be determined by reference to registration regulations made under section 9(2)(a).

58.— Conduct endangering ships, structures or individuals.

(1) This section applies to the user or operator of a watercraft within United Kingdom waters.

(2) If a person to whom this section applies, while in or on the watercraft or in its immediate vicinity—

(a) does any act which is likely to cause—

(i) the loss or destruction of or serious damage to any other watercraft or any ship or structure, or

(ii) the death of or serious injury to any person, or

(b) omits to do anything required—

(i) to preserve any person in or on the watercraft from death or serious injury, or

(ii) to prevent the watercraft from causing the loss or destruction of or serious damage to any other watercraft or any ship or structure, or death of or serious injury to any person not on board the watercraft,

and either of the conditions specified in subsection (3) below is satisfied with respect to that act or omission, the person is (subject to subsections (6) and (7) below) guilty of an offence.

(3) Those conditions are—

(a) that the act or omission was deliberate or amounted to a breach or neglect of duty;

(b) that the person who committed the act or made the omission was under the influence of drink or a drug at the time of the act or omission.

(4) If a person to whom this section applies—

(a) discharges any of their duties or performs any other function in relation to the operation of the watercraft or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as mention in subsection (2)(a) above, or

(b) fails to discharge any of their duties, or to perform any such function, properly to such extent as to cause, or to be likely to cause, any of those things,

the person is (subject to subsections (6) and (7) below) guilty of an offence.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction to a fine;

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

(6) In proceedings for an offence under this section it is a defence to prove—

(a) in the case of an offence under subsection (2) above where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;

(b) in the case of an offence under subsection (2) above, that at the time of the act or omission alleged the accused was under the influence of a drug taken for medical purposes and either—

(i) the accused took the drug on medical advice and complied with any directions given as part of that advice,

(ii) the accused had no reason to believe that the drug might have the influence it had;

(c) in the case of an offence under subsection (4) above, that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or

(d) in the case of an offence under either of those subsections—

(i) that the accused could have avoided committing the offence only by disobeying a lawful command, or

(ii) that in all the circumstances, the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by them.

(7) Where the watercraft is registered under the law of any country outside the United Kingdom, no proceedings for any offence under this section shall be instituted against any person—

(a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;

(b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.”

(8) In this section—

“breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;

“duty” means a duty of care however it arises, but only to the extent that the duty is owed in connection with the operation of the watercraft; and

“structure” means any fixed or moveable structure (of whatever description) other than a ship or watercraft.”.

95.— Power to detain dangerously unsafe ship.

(1) Where a ship [includes a watercraft] which is—

- (a) in a port in the United Kingdom, or
- (b) at sea in United Kingdom waters,

appears to a relevant inspector to be a dangerously unsafe ship [includes a watercraft], the ship [includes a watercraft] may be detained.

(2) Subject to subsection (2A) below the power of detention conferred by subsection (1) above is exercisable in relation to foreign ships [includes a watercraft] as well as United Kingdom ships [includes watercraft whether unregistered or registered in the United Kingdom].

(2A) The power of detention conferred by subsection (1)(b) is not exercisable in relation to a qualifying foreign ship [includes a watercraft] while the ship [includes a watercraft] is exercising—

- (a) the right of innocent passage, or
- (b) the right of transit passage through straits used for international navigation.”

(3) The officer detaining the ship [includes a watercraft] shall serve on the master of the ship [includes the owner of the watercraft] a detention notice which shall—

- (a) state that the relevant inspector is of the opinion that the ship [includes a watercraft] is a dangerously unsafe ship;
- (b) specify the matters which, in the relevant inspector's opinion, make the ship [includes a watercraft] a dangerously unsafe ship; and
- (c) require the ship [includes a watercraft] to comply with the terms of the notice until it is released by a competent authority.

(4) In the case of a ship [includes a watercraft] which is not a British ship [includes a watercraft] the officer detaining the ship [includes a watercraft] shall cause a copy of the detention notice to be sent as soon as practicable to the nearest consular officer for the country to which the ship belongs.

(5) In this section—

“competent authority” means any officer mentioned in section 284(1); and

“relevant inspector” means any person mentioned in paragraph (a), (b) or (c) of section 258(1).

85.— Safety and health on ships.

(1) The Secretary of State may by regulations (in this Act referred to as “safety regulations”) make such provision as he considers appropriate for all or any of the following purposes—

- (a) for securing the safety of United Kingdom ships [including watercraft] and persons on them, and for protecting the health of persons on United Kingdom ships [including watercraft];
- (b) for securing the safety of other ships [including watercraft] and persons on them while they are within United Kingdom waters and for protecting the health of persons on ships [including watercraft] other than United Kingdom ships [including watercraft] while they are within United Kingdom waters.

(1A) Except as provided by subsection (1B) below, safety regulations shall not apply in relation to—

- (a) a qualifying foreign ship [including a watercraft] while it is exercising—
 - (i) the right of innocent passage; or
 - (ii) the right of transit passage through straits used for international navigation; or
- (b) persons on such a ship [including a watercraft] while it is exercising any such right.

(1B) Safety regulations shall apply in relation to a qualifying foreign ship [including a watercraft], and persons on such a ship [including a watercraft], even though the ship [including a watercraft] is exercising a right mentioned in subsection (1A)(a) above, to the extent that the safety regulations give effect to any provisions of an international agreement ratified by the United Kingdom so far as it relates to the safety of ships [including watercraft] or persons on them or to the protection of the health of persons on ships [including watercraft].

(2) In subsection (1) above “*United Kingdom ship [including a watercraft]*” means a ship [including a watercraft] which—

- (a) is registered in the United Kingdom; or
- (b) is not registered under the law of any country but is wholly owned by persons each of whom is—
 - (i) a British citizen, a British overseas territories citizen or a British Overseas citizen, or
 - (ii) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.

(3) Regulations in pursuance of subsection (1)(a) or (b) above may make provision with respect to any of the following matters, that is to say—

- (a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships [including watercraft] and their machinery and equipment;
- (b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship [including a watercraft] which is not cargo, machinery or equipment;
- (c) the carrying out of any operation involving a ship [including a watercraft];
- (d) the use of the machinery and equipment of a ship [including a watercraft] and of anything on a ship [including a watercraft] which is not cargo, machinery or equipment;

- (e) the manning of ships [including watercraft], including the employment on ships [including a watercraft] of persons qualified to attend to the health and safety of persons on the ships [including watercraft];
- (f) the arrangements for ensuring communication between persons in different parts of a ship [including a watercraft] and between persons in the ship [including a watercraft] and other persons;
- (g) the access to, presence in and egress from a ship [including a watercraft], and different parts of it, of persons of any description;
- (h) the ventilation, temperature and lighting of different parts of a ship [including a watercraft];
- (i) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship [including a watercraft] and the emission in or from a ship [including a watercraft] of smoke, gas and dust;
- (j) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship [including a watercraft];
- (k) the steps to be taken to prevent any collision involving a ship [including a watercraft] and in consequence of any collision involving a ship [including a watercraft];
- (l) the steps to be taken, in a case where a ship [including a watercraft] is in distress or stranded or wrecked, for the purpose of saving the ship [including a watercraft] and its machinery, equipment and cargo and the lives of persons on or from the ship [including a watercraft], including the steps to be taken by other persons for giving assistance in such a case;
- (m) the removal, by jettisoning or otherwise, of its equipment and of other things from a ship [including a watercraft] for the purpose of avoiding, removing or reducing danger to persons or property;
- (n) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship [including a watercraft], for removing or reducing the danger and for warning persons who are not on the ship [including a watercraft] of the danger or suspected danger;
- (o) the making of records and the keeping of documents relating to ships [including a watercraft] and the keeping and use on a ship [including a watercraft] of information to facilitate the navigation of the ship [including a watercraft];
- (p) the keeping of registers and the issue of certificates in cases for which registration or a certificate is required by virtue of the regulations; and
- (q) the furnishing of information;

but the mention of specific matters in this subsection shall not be construed as restricting the generality of the power conferred by paragraph (a) or (b) of subsection (1) above.

(4) The power to make regulations conferred by subsection (1) above shall extend also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships [including watercraft] and seaplanes and subsection (3)(k) above and (5) to (7) below and [section 86\(1\)](#) shall have effect accordingly.

(5) Safety regulations—

- (a) may make provision in terms of approvals given by the Secretary of State or another person and in terms of any document which the Secretary of State or another person considers relevant from time to time;
- (b) may provide for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such an approval; and
- (c) must provide for any approval in pursuance of the regulations to be given in writing and to specify the date on which it takes effect and the conditions (if any) on which it is given.

(6) Without prejudice to [section 86\(1\)\(b\)](#), safety regulations may provide—

- (a) for the granting by the Secretary of State or another person, on such terms (if any) as the Secretary of State or other person may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases; and
- (b) for the alteration or cancellation of exemptions granted in pursuance of the regulations.

(7) Safety regulations may provide—

- (a) that in such cases as are prescribed by the regulations a ship [\[including a watercraft\]](#) shall be liable to be detained and that [section 284](#) shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship [\[including a watercraft\]](#);
- (b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
- (c) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, or such less amount as is prescribed by the regulations;
- (d) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (b) or (c) above;
- (e) that, notwithstanding anything in paragraph (b) or (c) above, a person convicted summarily of an offence under the regulations of a kind which is stated by the regulations to correspond to an offence which is triable either summarily or on indictment under an enactment specified in the regulations which authorises or authorised a fine on summary conviction of a maximum amount exceeding the statutory maximum shall be liable to a fine not exceeding that maximum amount.

(8) Safety regulations which make provision in respect of the prohibition of smoking on any ship [\[including any watercraft\]](#) (“the smoking provisions”) may include provision—

- (a) for the appointment by the Secretary of State of persons to enforce the smoking provisions (whether in respect of ships [\[including watercraft\]](#) generally or for any particular case or purpose), and for the removal of any person so appointed,

- (b) for such persons (if they are not surveyors of ships appointed under [section 256](#)) to have the powers of such surveyors for the purposes of their enforcement functions,
- (c) for any such persons to have, for the purposes of their enforcement functions, powers corresponding to those which authorised officers have under [paragraphs 2\(b\) to \(e\), 3 and 4](#), as read with [paragraphs 5 and 9, of Schedule 2 to the Health Act 2006](#) (which confers powers of entry, etc., on authorised officers of enforcement authorities in relation to the enforcement of the provisions of that Act in relation to smoking),
- (d) in relation to an offence of smoking in a place where smoking is prohibited under the smoking provisions, for purposes corresponding to those of [section 9](#) of and [Schedule 1 to the Health Act 2006](#) (which provide for the giving by authorised officers of penalty notices in respect of such an offence).

In this subsection, “*smoking*” has the same meaning as in [Chapter 1 of Part 1 of the Health Act 2006](#).

86.— Provisions supplementary to section 85: general.

(1) Safety regulations may—

- (a) make different provision for different circumstances and, in particular, make provision for an individual case;
- (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
- (c) be made so as to extend outside the United Kingdom;
- (d) contain such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate;
- (e) make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with the regulations, for any expense or loss caused in consequence of the signal's being taken for a signal of distress;

and any compensation falling to be paid by virtue of regulations under paragraph (e) above may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(2) The Secretary of State may by regulations—

- (a) make such repeals or other modifications of provisions of the Merchant Shipping Acts 1894 to 1977 re-enacted in this Act, and of any instruments made under those Acts as he considers appropriate in consequence or in anticipation of the making of safety regulations;
- (b) make such repeals or other modifications of provisions of any enactment passed and any instrument made before 4th April 1979 as he considers appropriate in connection with any modification made or to be made in pursuance of paragraph (a);
- (c) provide for anything done under a provision repealed or otherwise modified by virtue of either of the preceding paragraphs to have effect as if done under safety regulations and make such other transitional provision and such

incidental and supplemental provision as he considers appropriate in connection with any modification made by virtue of either of those paragraphs.

(3) Nothing in [section 85\(3\) to \(6\)](#) or subsection (1) above shall be construed as prejudicing the generality of [section 85\(1\)](#).

(4) Where the Secretary of State proposes to make safety regulations or he or another person proposes to give an approval in pursuance of safety regulations it shall be the duty of the Secretary of State or other person, before he gives effect to the proposal.

100.— Owner liable for unsafe operation of ship.

(1) It is the duty of the owner of a watercraft to which this section applies to take all reasonable steps to secure that the watercraft is operated in a safe manner.

(2) This section applies to any watercraft within United Kingdom waters.

(3) If the owner of a watercraft to which this section applies fails to discharge the duty imposed by subsection (1) above, the owner is liable—

(a) on summary conviction, to a fine;

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

(4) Where any such watercraft is managed, either wholly or in part, by a person (“P”) other than the owner under the terms of an arrangement (whether or not for reward) under which the operational safety (whether or not among other things) is to be maintained P, any reference to the owner of the watercraft in subsection (1) or (3) above includes a reference to P.

(5) No proceedings for an offence under this section are to be instituted—

(a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;

(b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions in Northern Ireland.

[NB: Ss.96 and 97 (relating to arbitration for detention and compensation for invalid detention), s.256 (on the appointment of surveyors and inspectors), and s.284 (relating to enforcement of detention) are also applied, but are not reproduced here.]

306.— Regulations, rules and orders, etc.

~~(1) Subject to subsection (1A) below, any power of the Secretary of State to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.~~

(1) Any power of the Secretary of State to make subordinate legislation under this Act is exercisable by statutory instrument.

~~(1A) Subsection (1) above does not apply to—
(a) rules made under section 91; or~~

~~(b) any instrument made under section 128(4)(f) other than an instrument containing regulations.~~

~~(2) Subject to subsection (2A) below—~~

~~(a) any statutory instrument containing regulations under this Act (including such an instrument made by virtue of section 128(4)(f) or 182B(4)(e)), and~~

~~(b) any statutory instrument containing an order or rules made under this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.~~

2) Any subordinate legislation made under any provision of this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

~~(2A) Subsection (2) above does not apply to—~~

~~(a) regulations made under section 130A, 259(8) or 260(3) or Schedule 11A;~~

~~(b) commencement orders;~~

~~(c) any order made under section~~

~~216(2), 223(3), 255G(3)(c), 255Q(2), 255U(1), paragraph 8 of Part II of Schedule 7, or any provision of Schedule 14.~~

~~(3) Any statutory instrument containing an Order in Council under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament but this subsection does not apply to Orders under section~~

~~2(4), 128, 129, 152(2), 172(2), 182B(1), 183, 184, 224, 308 or 315(2) or under paragraph 10 of Part II of Schedule 6 or paragraph 13 of Part II of Schedule 7.~~

~~(4) Before making the following regulations, rules or orders, namely—~~

~~(a) regulations under section 108 or 130A;~~

~~(b) rules under Chapter II of Part V;~~

~~(c) an order under section 311;~~

~~the Secretary of State shall consult with organisations in the United Kingdom appearing to him representative of persons who will be affected by the regulations, rules or orders.~~

~~(5) Any direction, notice, order or authorisation under this Act given or made by the Secretary of State shall be in writing.~~

~~(6) Any power to give a direction includes power to vary or revoke the direction by a subsequent direction.~~

306A Power to make ambulatory references to international instruments

(1) This section applies where—

(a) a person has power under this Act to make subordinate legislation, and

(b) the person proposes to exercise that power to make subordinate legislation which refers to an international instrument.

(2) The power may be exercised so as to have the effect that the reference to the instrument is construed—

(a) as a reference to the instrument as modified from time to time;

- (b) if the instrument is replaced by another instrument, as a reference to that other instrument.
- (3) For the purposes of subsection (2)(a), an instrument is modified if—
- (a) omissions, additions or other alterations to the text of the instrument take effect, or
 - (b) supplementary provision made under the instrument takes effect.
- (4) In this section, provision included in subordinate legislation by virtue of subsection (2) is referred to as ambulatory provision.
- (5) Subordinate legislation which makes ambulatory provision may make provision as to—
- (a) when a modification of an international instrument is to be treated as taking effect for the purposes of subsection (2)(a) (read with subsection (3));
 - (b) when an international instrument is to be treated as having been replaced by another instrument for the purposes of subsection (2)(b).
- (6) In this section—
- (a) “*international instrument*” means an international convention or treaty or an instrument made under such a convention or treaty or an instrument made under such a convention or treaty except that “*international instrument*” does not include an EU instrument;
 - (b) “*subordinate legislation*” has the same meaning as in the [Interpretation Act 1978](#).

313.— Definitions.

- (1) In this Act, unless the context otherwise requires—

“*British connection*” has the meaning given in [section 9\(9\)](#);

“*British citizen*”, “*British Dependent Territories citizen*”, “*British Overseas citizen*” and “*Commonwealth citizen*” have the same meaning as in the [British Nationality Act 1981](#);

“*British ship*” has the meaning given in [section 1\(1\)](#);

“*commissioned military officer*” means a commissioned officer in Her Majesty's land forces on full pay;

“*commissioned naval officer*” means a commissioned officer of Her Majesty's Navy on full pay;

“*conservancy authority*” includes all persons entrusted with the function of conserving, maintaining or improving the navigation of a tidal water (as defined in [section 255](#));

“*consular officer*”, in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country;

“*contravention*” includes failure to comply (and “*failure*” includes refusal);

“*Departmental inspector*” and “*Departmental officer*” have the meanings given in [section 256\(9\)](#);

“fishing vessel” means a vessel for the time being used (or, in the context of an application for registration, intended to be used) for, or in connection with fishing for sea fish other than a vessel used (or intended to be used) for fishing otherwise than for profit; and for the purposes of this definition *“sea fish”* includes shellfish, salmon and migratory trout (as defined by [section 44](#) of the [Fisheries Act 1981](#));

“foreign”, in relation to a ship, means that it is ~~neither a United Kingdom ship nor a small ship~~ **not a United Kingdom ship or a watercraft or a small ship** (as defined in [section 1\(2\)](#)) which is a British ship;

“Government ship” has the meaning given in [section 308](#);

“harbour” includes estuaries, navigable rivers, piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers;

“harbour authority” means, in relation to a harbour—

- (a) the person who is the statutory harbour authority for the harbour, or
- (b) if there is no statutory harbour authority for the harbour, the person (if any) who is the proprietor of the harbour or who is entrusted with the function of managing, maintaining or improving the harbour;

“master” includes every person (except a pilot) having command or charge of a ship and, in relation to a fishing vessel, means the skipper;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975,;

“port” includes place;

“proper officer” means a consular officer appointed by Her Majesty's Government in the United Kingdom and, in relation to a port in a country outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

“qualifying foreign ship” has the meaning given in [section 313A](#),;

“the register” and *“registered”* have the meaning given in [section 23\(1\)](#);

“the registrar”, in relation to the registration of ships, has the meaning given in [section 8](#);

“registration regulations” means regulations under [section 10](#);

“relevant British possession” means—

- (a) the Isle of Man;
- (b) any of the Channel Islands; and
- (c) any colony;

“safety regulations” means regulations under [section 85](#);

“seaman” includes every person (except masters and pilots) employed or engaged in any capacity on board any ship;

“ship” includes every description of vessel used in navigation;

“statutory harbour authority” means—

- (a) in relation to Great Britain, a harbour authority within the meaning of the [Harbours Act 1964](#); and

(b) in relation to Northern Ireland, a harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970.

“*superintendent*” means a mercantile marine superintendent appointed under [section 296](#); “*surveyor of ships*” has the meaning given in [section 256\(9\)](#);

“*the tonnage regulations*” means regulations under [section 19](#);

“*United Kingdom ship*” (and in [Part V](#) “*United Kingdom fishing vessel*”) has the meaning given in [section 1\(3\)](#) except in the contexts there mentioned; and

“*wages*” includes emoluments.

(2) In this Act—

(a) “*United Kingdom waters*” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom; and

(b) “*national waters*”, in relation to the United Kingdom, means United Kingdom waters landward of the baselines for measuring the breadth of its territorial sea.

(2A) In this Act “*right of innocent passage*”, “*right of transit passage*” and “*straits used for international navigation*” shall be construed in accordance with the United Nations Convention on the Law of the Sea 1982.

(3) A vessel for the time being used (or intended to be used) wholly for the purpose of conveying persons wishing to fish for pleasure is not a fishing vessel.

313A.— Meaning of “qualifying foreign ship.”

(1) In this Act “*qualifying foreign ship [including a watercraft]*” means any ship [\[including a watercraft\]](#) other than—

(a) a British ship [\[including a watercraft\]](#), or

(b) a ship [\[including a watercraft\]](#) which is not registered under [Part II](#) and which (although not by virtue of [section 1\(1\)\(d\)](#) a British ship [\[including a watercraft\]](#))—

(i) is wholly owned by persons falling within subsection (2) below, and

(ii) is not registered under the law of a country outside the United Kingdom.

(2) The following persons fall within this subsection, namely—

(a) British citizens,

(b) British overseas territories citizens],

(c) British Overseas citizens,

(d) persons who under the [British Nationality Act 1981](#) are British subjects,

(e) British Nationals (Overseas) (within the meaning of that Act),

(f) British protected persons (within the meaning of that Act), or

(g) bodies corporate incorporated in the United Kingdom or in any relevant British possession and having their principal place of business in the United Kingdom or in any relevant British possession.

Merchant Shipping (Registration of Ships) Regulations 1993

1.— Citation, commencement and interpretation

~~(1) These Regulations may be cited as the Merchant Shipping (Registration of Ships) Regulations 1993 and shall come into force on 21st March 1994.~~

(2) In these Regulations unless the context otherwise requires:—

“the Act” means the ~~Merchant Shipping (Registration, etc.) Act 1993~~ Merchant Shipping Act 1995;

“*application for registration*” includes, except where otherwise stated, application for registration of a ship or share in a ship; application for registration of a small ship [includes a watercraft]; application for re-registration of the same; and application for the registration of a transfer or transmission of a ship or a share in a ship; but not application for the renewal of registration;

“*appropriate person*” means in relation to a port in a country outside the British Islands:—

- (a) any British consular officer within whose consular district the port lies; or
- (b) where Her Majesty's Government in the United Kingdom is represented in that country by a High Commissioner, any member of the High Commissioner's official staff nominated by him for the purposes of these Regulations; or
- (c) where that country is a colony, the Governor of the colony or any person appointed by him for the purposes;

and in this definition “*High Commissioner*” includes an acting High Commissioner and “*Governor*” includes an acting Governor;

“*appropriate attestation*” means attestation in a form approved by the Secretary of State;

“*authorised measurer*” means the Secretary of State or any person authorised under the Merchant Shipping (Tonnage) Regulations 1982 the Merchant Shipping (Fishing Vessels – Tonnage) Regulations 1988 to carry out the measurement of ships for the purposes of those Regulations;

“*bareboat charter ship*” a ship registered under section ~~7 of that Act~~ 17 of the Act;

“*beneficial ownership*” shall be determined by reference to every beneficial interest in that vessel, however arising (whether held by trustee or nominee or arising under a contract or otherwise), other than an interest held by any person as mortgagee;

“*builders certificate*” means a certificate signed by the builder of the ship and containing a true account of the proper denomination and of the tonnage of the ship, as estimated by him, and of the date and place where it was built, and of the name of the person, if any, for whom the ship was built, or the name of the person to whom it was delivered;

“*certificate of registry*” means a certificate of registration which is issued to a ship [includes a watercraft] which is registered under the Act and includes a certificate of bareboat charter unless the context otherwise requires;

“*certificate of bareboat charter*” means a certificate of registration issued to a ship which is registered under section ~~7~~ 17 of the Act;

“*classification society*” means a person authorised to act as a ‘Certifying Authority’ for the purposes of the Merchant Shipping (Tonnage) Regulations 1982;

“*closure transcript*” means a certified extract from the register showing that the entry in the register in respect of a ship has been closed, the date of its closure, and the details about the ship and its ownership at the time of closure;

“*declaration of eligibility*” means a declaration which complies with the provisions of [regulation 22\(1\)](#);

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

“*EEA State*” means a State which is a contracting party to the EEA Agreement;

“*fishing vessel*” means a ~~vessel within the meaning of paragraph 2(1)(c) of Schedule 4 to fishing vessel as defined in section 313(1) of the Act;~~

“*fishing vessel certificate*” means a certificate of that name specified in [section 123](#) of the [Merchant Shipping Act 1995](#);

“*identifying number*” means:

- (a) where the Registrar has allocated a bareboat charter ship a number under [regulation 79\(2\)\(b\)](#) or [\(3\)](#), that number, or
- (b) in any other case, the unique number allocated to a bareboat charter ship for identification purposes by its primary register;

“*inspector of marks*” means an authorised measurer or any person authorised by the Secretary of State to verify the carving and marking of a ship under these Regulations;

“*length*” in [regulations 29](#), [42](#) and [56](#) (except in [regulation 56\(4\)\(b\)](#)) has the same meaning as in the Tonnage Regulations;

“*local office*” means an office of the Ministry of Agriculture, Fisheries and Food, The Scottish Office Agriculture and Fisheries Department or the Department of Agriculture for Northern Ireland, listed in the list published by the Department of Transport and entitled ‘List of Local Offices for Fishing Vessel Registration’;

“*maximum continuous engine power*” has the same meaning as “engine power” in Article 5.1 of Council Regulation (EEC) No. 2930/86 (defining characteristics for fishing vessels);

“*modification explanation*” means the clear explanation, referred to in Article 3.3 of Commission Regulation (EEC) No. 1381/87 (establishing detailed rules concerning the marking and documentation of fishing vessels), of the method by which any modification of engine power has been carried out;

“*non-United Kingdom nationals exercising their right of freedom of movement of workers or right of establishment*” means persons who are either—

- (a) nationals of a member State other than the United Kingdom exercising in the United Kingdom their rights under Article 45 or 49 of the Treaty on the Functioning of the European Union, as the case may be, or
- (b) nationals of a State, other than a member State, which a Contracting Party to the EEA Agreement exercising in the United Kingdom their rights under Article 28 or 31 of the EEA Agreement.

“overall length” has the same meaning as “length overall” in the Tonnage Regulations.

“owner” means, in relation to a ship or share in a ship, the person owning the ship, or as the case may be, a share in the ship, whether or not registered as owner **and in relation to a watercraft means the person able, by whatever means, to satisfy the Registrar of his or her ownership of the watercraft;**

“permanently de-rated engine power” means a modification of the maximum continuous engine power referred to in Article 3.3 of Commission Regulation (EEC) No. 1381/87;

“pleasure vessel” means a pleasure vessel as defined in [regulation 2 of the Merchant Shipping \(Vessels in Commercial Use for Sport or Pleasure\) Regulations 1998](#);

“port letters” means the letters for the port of choice;

“port number” means the number allocated for a fishing vessel within its port of choice under [regulation 31\(2\)\(b\), 53\(2\) or 79\(2\)\(a\)](#);

“port of choice” means a port listed in [Schedule 2](#) which an applicant chooses as a port to be marked on his ship;

“primary register” means the register on which the ship is registered at the time the application is made to register the ship as a bareboat charter ship;

“the Register” means the Register of British ships ~~established under section 4~~ **maintained under section 8** of the Act;

“the Registrar” means the person described as “the registrar” in section ~~9(2)-8(2)~~ of the Act;

“representation” means probate, administration, confirmation, or other instrument constituting a person the executor, administrator or other legal representative of a deceased person, including a certificate of confirmation relating to a vessel;

“salmon coble” means a vessel under 10 metres in overall length used for fishing for profit only in connection with the private rights of fishing for salmon or migratory trout;

“settled” has the same meaning as in [section 33\(1\) of the Immigration Act 1971](#);

“ship” includes a fishing vessel but does not include a small ship or a bareboat charter ship except for the purposes of [Part XII \(Miscellaneous\)](#) and [Part XIII \(Offences\)](#);

“small ship” means—

(a) a watercraft, or

(b) a ship which is less than 24 metres in overall length which is, or is applying to be, registered under [Part XI](#);

“submersible vessel” means any vessel used or designed to be used under the surface of any waters;

“surveyor of ships” means a marine surveyor nominated by the Secretary of State to undertake the surveys required by these Regulations and includes any marine surveyor of the Department of Transport,

“Tonnage Regulations” means the [Merchant Shipping \(Tonnage\) Regulations 1997](#);

“transfer of a ship” includes, except where the context otherwise requires, transfer of a share in a ship.

2.— The Register

- (1) The Register maintained by the Registrar in accordance with [section 1\(1\) and \(2\)](#) [section 8\(1\), \(1A\) and \(2\)](#) of the Act shall be divided into the following parts:—
 - (a) **Part I** for ships, owned by persons qualified in accordance with these regulations, which are not:
 - (i) fishing vessels, or
 - (ii) registered on that Part which is restricted to small ships,
 - (b) **Part II** for fishing vessels,
 - (c) **Part III** for small ships [[includes watercraft](#)], and
 - (d) **Part IV** for ships which are registered under [section 7](#) of the Act ('bareboat charter ships').
- (2) The Register may consist of both paper and computerised records and such other records as the Secretary of State may consider to be expedient.
- (3) Any person shall be entitled on application to the Registrar to obtain a transcript, certified by an authorised officer, of the entries in the Register.
- (4) During the official opening hours of the General Registry of Shipping and Seamen any person shall be entitled on request to inspect the entries in the Register.
- 5) Entries in the Register shall be made in accordance with the following provisions:—
 - (a) the property in a ship shall be divided into sixty-four shares;
 - (b) subject to the provisions of the Act and these Regulations with respect to joint owners or owners by transmission, not more than sixty-four persons shall be entitled to be registered at the same time as owners of any one ship. This rule shall not affect the beneficial title of any persons represented by or claiming under or through any registered owner or joint owner;
 - (c) a person shall not be entitled to be registered as owner of a part of a share; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares in a ship;
 - (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share in a ship in respect of which they are registered.
- (6) The Registrar shall be entitled to amend the Register where:—
 - (a) a clerical error has occurred, or
 - (b) sufficient evidence is produced to satisfy him that the entry is incorrect, and on making the amendment he shall issue a new certificate of registry or permission if necessary.

5. Registration on only one Part of the Register

No ship, including a small ship [includes watercraft], may be registered on more than one part of the Register at any one time.

6.— Trusts not to be entered

(1) Subject to paragraph (2) no trust, express, implied or constructive may be registered by the Registrar.

(2) Where, on the bankruptcy (or in Scotland, sequestration) of a registered owner or mortgagee his title is transmitted to his trustee in bankruptcy (or in Scotland his permanent trustee), that person, if a qualified person, may be registered as the owner or mortgagee of a British ship [includes a watercraft] or share in a ship [includes a watercraft].

20.— Form of application

(1) Every application made under these Regulations shall be made to the Registrar at the General Registry of Shipping and Seamen. Applications in respect of fishing vessels may also be made through a local office.

~~(2) The application shall be made in a form approved by the Secretary of State and shall contain the name and address of the applicant and sufficient information to enable the ship to be identified.~~

21.— The applicant

(1) Every application made under these Regulations shall be made:—

- (a) in the case of individuals, by some one or more of the individuals registered or requiring to be registered as owners or by his or their agent, or
- (b) in the case of a body corporate, by a duly authorised officer of that body corporate, or by its agent, or
- (c) in the case of an European Economic Interest Group, by a duly authorised officer of that Group, or by its agent.

24.— Applications by bodies corporate

Where application is made on behalf of a body corporate, the application must be accompanied by:—

(a) if it is a company registered in the United Kingdom, a copy of its certificate of incorporation, and, in the case of a company which has changed its name since incorporation, its certificates of change of name, or

(b) if it is:—

- (i) a company incorporated in a State other than the United Kingdom, or

- (ii) a company incorporated in any relevant British possession, proof in accordance with the laws of the country of its incorporation that the company is an incorporated company,
- (c) if it is a company, other than a company incorporated in the United Kingdom, with a place of business in the United Kingdom, a certificate from the Registrar of Companies in England and Wales, the Registrar of Scottish Companies or the Registrar of Northern Ireland Companies that the company is registered with him as an oversea company, and
- (d) if it is a body corporate incorporated by virtue of an Act of Parliament, a Charter granted by Her Majesty, or an Act or Ordinance of a relevant British possession, proof, sufficient to satisfy the Registrar, of its incorporation.

88. Qualification and entitlement to be registered as a small ship on Part III of the Register

To be eligible to be registered on [Part III](#) of the Register a ship must be a small ship [\[includes a watercraft\]](#) other than:–

- (a) a fishing vessel, or
- (b) a submersible vessel.

89. Persons qualified to be the owners of a small ship to be registered on Part III of the Register

The following persons are entitled to be the owners of a small ship [\[includes a watercraft\]](#) to be registered on [Part III](#) of the Register:–

- (a)
 - (i) British citizens; or
 - (ii) non-United Kingdom nationals exercising their right of freedom of movement of workers or right of establishment;
- (b) [British overseas territories citizens];
- (c) British Overseas Citizens;
- (d) persons who under the [British Nationality Act 1981](#) are British subjects;
- (e) persons who under the [Hong Kong \(British Nationality\) Order 1986](#) are British Nationals (Overseas);
- (f) Commonwealth citizens not falling within those paragraphs; and
- (g) non-United Kingdom nationals who are settled in the United Kingdom.

90. British connection

Subject to [regulation 93\(2\)](#) (Details to be registered and refusal) a small ship [\[includes a watercraft\]](#) shall be entitled to be registered if it is owned by one or more persons who are ordinarily resident in the United Kingdom and who are qualified to be the owners of a small

ship [includes a watercraft] by virtue of regulation 89 (Persons qualified to be the owners of a small ship to be registered on Part III of the Register).

91. Disapplication of Schedule I to the Act in respect of small ships

Schedule I to the Act relating to the private law provisions (Transfers by bill of sale and the registration of mortgages) shall not apply to small ships [includes a watercraft].

92. Applications

Applications shall be in a form approved by the Secretary of State and shall include:—

- (a) a description of the ship [includes a watercraft];
- (b) the overall length of the ship [includes a watercraft];
- ~~(c) the name of the ship;~~
- ~~(ca) confirmation that the ship is not a sanctioned ship;~~
- (d) the name and address of every owner of the ship [includes a watercraft]; and
- (e) a declaration by every owner:—
 - (i) that he is eligible to be the owner of a small ship [includes a watercraft] under regulation 89 (Persons qualified to be the owners of a small ship to be registered on Part III of the Register), and
 - (ii) that the ship [includes a watercraft] is entitled to be registered on Part III of the Register in accordance with regulation 90 (British connection).

93.— Details to be registered and refusal

~~(1) On receiving an application for registration and being satisfied that the ship may properly be registered and that the name of the ship does not appear to him to be undesirable, the Registrar shall register the ship and shall record in the Register the following details:—~~

- ~~(a) the registration number of the ship;~~
- ~~(b) the date of registration;~~
- ~~(c) the date of expiry of registration in accordance with regulation 96 (Period of registration); and~~
- ~~(d) the details specified in regulation 92(a) to (d).~~

(1) The Registrar must register a watercraft and record in the Register the details mentioned in paragraph (1A) if the Registrar is satisfied in respect of an application to register a watercraft that—

- (a) the watercraft is eligible to be registered,
- (b) the particulars of the watercraft furnished in respect of the application are correct,

- (c) the ownership of the craft has been sufficiently established, and
- (d) the relevant requirements of these Regulations have been complied with.

(1A) The details referred to in paragraph (1) are—

- (a) the registration number of the watercraft;
- (b) the date of registration;
- (c) the date of expiry of the registration in accordance with regulation 96;
- (d) a description of the watercraft;
- (e) the overall length of the watercraft;
- (f) the name and address of every owner of the watercraft.

(2) Where the Registrar is not satisfied that the ship [includes a watercraft] is eligible to be registered on this Part of the Register, he may, subject to regulation 106 (Requirement for supplementary information), refuse to register the ship [includes a watercraft].

94. Certificate of registry

On registration the Registrar shall issue a certificate which shall contain the details recorded in the Register in accordance with regulation 93 (Details to be registered and refusal) save for the address of any owner.

95. Marking

The person registered as owner of the ship [includes a watercraft] shall ensure that:—

- (a) within one month of the date on which the registration of the ship [includes a watercraft] takes effect there is clearly painted on or affixed to a visible external surface of the ship [includes a watercraft] the number of its registration preceded by the letters SSR, and
- (b) such marking is effectively maintained and renewed when necessary during the period of the registration of the ship [includes a watercraft].

96. Period of registration

The registration of a ship [includes a watercraft] under this Part shall, unless terminated under these Regulations, be valid for a period of 5 years beginning with the date of registration specified in the certificate of registry and shall expire at the end of that period unless it is renewed under regulation 97 (Renewal).

97.— Renewal

(1) Application for renewal of registration may be made during the last 3 calendar months of the current registration period.

(2) Application for renewal shall be in writing and be accompanied by a declaration as required by regulation 92(e) (Applications).

98.— Notification of changes of ownership etc.

(1) If at any time there occurs, in relation to a ship [includes a watercraft] registered under this Part:—

- (a) any change affecting the eligibility of the ship [includes a watercraft] to be registered as a British ship [includes a watercraft], or
- (b) any change in relation to the address of the registered owner of the ship [includes a watercraft], or
- (c) any change in details relating to the ship [includes a watercraft],

the registered owner of the ship [includes a watercraft] shall, as soon as practicable after the change occurs, notify the Registrar.

(2) Notification made under paragraph (1) shall be in writing, shall be signed by the registered owner and shall specify the nature of the change and ~~the name and~~ the number of the ship [includes a watercraft].

99.— Supplementary information—production of ship

(1) Where it appears to the Registrar that there is any doubt as to the right of the ship [includes a watercraft] to be registered on Part III of the Register, he may require satisfactory evidence to be produced by the person registered as the owner that the ship [includes a watercraft] is entitled to be so registered.

(2) Such evidence may include the production of the ship [includes a watercraft] for inspection at a place and under such conditions as the Registrar requires; and, if the necessary evidence is not provided within 1 month of being so required, he may terminate the registration of the ship [includes a watercraft].

100.— Termination of registration

(1) In the event of:—

- (a) a ship [includes a watercraft] ceasing to be a ship [includes a watercraft] to which this Part applies, or
- (b) a change in the details recorded on the certificate of registry,

the registration of the ship [includes a watercraft] shall terminate.

(2) Where the registration of a ship [includes a watercraft] is terminated, the certificate of registry shall cease to have effect and shall, within one month, be surrendered to the Registrar by the person registered prior to the termination as the owner of the ship [includes a watercraft] or, if he has died, by his legal personal representative.

103. Documents not in the English language to be accompanied by a translation

Any document which is not in the English language and is produced in support of any application under these Regulations shall be accompanied by a notarised translation of the document in the English language.

104. Witnessing of documents

Where the signature on any document made under these Regulations is required to be witnessed any witness to the signature shall be a person of full age and shall not be the spouse of the signatory.

105. Dispensing with declarations

When under these Regulations:—

- (a) any person is required to make a declaration on behalf of himself or any body corporate, but is unable to do so and can satisfy the Registrar that it is due to reasonable cause, the Registrar may on such terms as he thinks fit, dispense with the declaration, or
- (b) any evidence is required to be produced to the Registrar, but such evidence is unable to be produced and the Registrar is satisfied that it is due to reasonable cause, the Registrar may on production of such other evidence as he considers appropriate, dispense with the evidence.

105A.— Copies of documents

(1) Where any document listed in paragraph (2) is to be provided by or to the Registrar, the Registrar may provide or receive a copy of that document, including a copy provided or received by means of an electronic communication.

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

- (a) a transcript of the entries in the Register referred to in [regulation 2\(3\)](#);
- (b) an appointment of a representative person referred to in [regulation 18\(4\)\(a\)](#);
- (c) a certified extract in respect of the ship referred to in [regulation 22\(2\)](#);
- (d) proof of incorporation in accordance with the laws of a foreign country referred to in [regulation 24\(b\)](#);
- (e) a certificate from the one of the Registrars of Companies referred to in [regulation 24\(c\)](#);
- (f) a builder's certificate referred to in [regulation 28\(1\)\(a\)](#) or [59\(4\)\(e\)](#);
- (g) a bill of sale referred to in [regulation 28\(1\)\(b\)](#) and [regulation 43\(1\)](#);
- (h) a certificate of survey or measurement specifying a ship's tonnage and build referred to in [regulation 29\(3\)](#), [regulation 51\(3\)](#), [regulation 82\(1\)\(b\)](#) and [regulation 113A\(1\)](#);
- (i) a carving and marking note referred to in [regulation 31\(2\)](#), [regulation 33](#), [regulation 35](#) and [regulation 80](#);
- (j) a certificate of permanent defacement referred to in [regulation 31\(4\)](#);
- (k) a renewal notice referred to in [regulation 41](#) or [regulation 83\(2\)](#);

- (l) a grant of representation or an extract from that grant in [regulation 46\(2\)\(a\)](#) or [regulation 60\(b\)\(i\)](#);
- (m) such evidence of proof of title referred to in [regulation 46\(2\)\(b\)](#) or [regulation 60\(b\)\(ii\)](#);
- (n) a signed notification referred to in [regulation 49](#), [regulation 84](#) or [regulation 98](#);
- (o) a marking note referred to in [regulation 52\(2\)](#), [regulation 53\(3\)](#), [regulation 54](#) and [regulation 72](#);
- (p) a copy of certificate of registry, and any other document evidencing registration referred to in [regulation 59\(4\)\(d\)](#);
- (q) an instrument of transfer of a registered mortgage in [regulation 61](#);
- (r) a mortgage deed referred to in [regulation 62\(1\)](#);
- (s) a certificate of registry or other document referred to in [regulation 77\(3\)\(c\)](#);
- (t) a notarised translation in the English language of any other document, as referred to in [regulation 103](#).

(3) For the purposes of paragraph (1)—

“electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

- (i) by means of an electronic communications network; or
- (ii) by other means but while in electronic form; and

“electronic communications network” has the meaning set out in [section 32\(1\)](#) of the [Communications Act 2003](#).

106. — Supplementary information

Where the Registrar is not satisfied by the information provided on an application for registration of a ship [\[includes a watercraft\]](#) that the ship [\[includes a watercraft\]](#) is eligible for registration or that any of the particulars or other information supplied is correct or sufficient, he may require such supplementary information or evidence as he considers appropriate.

107. Fees

Where a fee is prescribed in respect of any service or other transaction to be carried out pursuant to these Regulations, the Registrar shall not be required to carry out the service or other transaction unless the appropriate fee has been paid.

108.— Duplicate certificates

(1) If it is shown to the satisfaction of the Registrar that the certificate of registry or permission has been lost, stolen or destroyed or has become defaced or illegible (“the event”), he may issue to the owner a duplicate of that certificate, which shall be marked as such, and shall be of the same effect as the original.

(2) Where a duplicate certificate of registry or permission is issued the original if then available or if subsequently found or recovered shall be forthwith surrendered to the Registrar.

(3) If—

(a) the port where the ship [includes a watercraft] is at the time of the event, or as the case may be, where it first arrives after the event, is not in the United Kingdom, and

(b) the master [includes the owner] of the ship [includes a watercraft] or some other person having knowledge of the facts of the case makes a declaration before the appropriate person as to the loss, theft, destruction, defacement or illegibility of the certificate,

the appropriate person shall notify the Registrar.

(4) On being notified of the event and being satisfied that the ship [includes a watercraft] is entitled to be issued with a duplicate certificate the Registrar shall authorise the appropriate person to issue a provisional certificate, endorsed with a statement of the circumstances under which it is granted.

(5) The provisional certificate shall within 10 days of the ship [includes a watercraft] arriving in a port in the United Kingdom be surrendered to the Registrar, and a duplicate certificate shall be issued.

109.— Custody of certificate

(1) A certificate of registry shall be used only for the lawful navigation of the ship [includes a watercraft], and shall not be subject to detention by reason of any title, lien, charge or interest whatever had or claimed by any owner, or mortgagee or other person to, on, or in the ship [includes a watercraft].

(2) If any person refuses to surrender the certificate of registry when in his possession or under this control to the person entitled to its custody for the purposes of the lawful navigation of the ship [includes a watercraft], or to the Registrar, or an officer of customs or any other person entitled by law to demand such delivery, he shall be guilty of an offence.

110. Surrender of certificate on termination or expiry of registration

On the termination, whether by expiration of the registration period or otherwise, of a ship's [includes a watercraft's] registration the certificate of registry must be returned by the owner or charterer to the Registrar for cancellation.

111. Dispensing with production of certificate

Where a certificate of registry or permission is required by these Regulations to accompany any application and it is shown to the satisfaction of the Registrar that for any reasonable cause (which includes, but is not limited to, the ship [includes a watercraft] being in a port outside the United Kingdom, or the certificate being needed for an imminent voyage, at the time the application was made) the certificate cannot be produced, the Registrar may, subject to such conditions as he thinks fit, dispense with its production.

113. Removal of marks on cessation of registration

If a ship's [includes a watercraft's] registration is terminated, whether by expiration of the registration period or otherwise, or if a marks removal note has been issued in respect of the ship [includes a watercraft] under regulation 87E, the marking prescribed under these Regulations must be removed from the ship [includes a watercraft] and written confirmation of that removal must be sent to the Registrar.

114.— Offences

(1) Any person who, with intent to deceive, uses or lends or allows to be used by another, a certificate of registry whether in force or not, commits an offence.

(2) It shall be an offence on the part of the owner ~~or master~~ of a registered ship [includes a watercraft] if any of the marks required by these Regulations to be marked on a ship is effaced, altered, allowed to become illegible, covered or concealed.

(3) It shall be a defence for a person charged with an offence under paragraph (2) of this regulation to prove:—

- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence, or
- (b) that the effacing, alteration, covering or concealing of the marking was for the purpose of escaping capture by an enemy.

(4) Any person who fails, without reasonable cause to surrender a certificate of registry when required to do so by regulation 108 (Duplicate certificates), 109 (Custody of certificate) or 110 (Surrender of certificate on termination or expiry of registration) commits an offence.

(5) Any person who in connection with the registration of a ship [includes a watercraft] knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence.

(6) Any person who intentionally alters, suppresses, conceals or destroys a document which he has been required by these Regulations to produced to the Registrar shall be guilty of an offence.

(7) The offences specified in regulations 29A, 49 and 84 (Notification of changes) and in paragraphs (1), (4), (5) and (6) of this regulation shall be punishable on summary conviction as follows:—

- (a) for an offence under regulations 29A, 49 and 84 or paragraph (1), [(5) or (6) of this regulation, with a fine not exceeding level 5 on the standard scale, and
- (b) for an offence under paragraph (4) with a fine not exceeding level 3 on the standard scale.

(8) An offence under paragraph (2) shall be punishable as follows:—

- (i) on conviction on indictment to a fine,
- (ii) on summary convictions to a fine not exceeding the statutory maximum.

(9) The offences specified in [regulations 50 and 51](#) (notification of changes or making of applications), including regulation 51 as applied by [regulation 85](#), shall be punishable on summary conviction with a fine not exceeding level 5 on the standard scale

Harbours Act 1964

40A Directions

(1) A designated harbour authority may give directions (“harbour directions”) in respect of ships [\[includes watercraft\]](#)—

- (a) within their harbour, or
- (b) entering or leaving their harbour.

(2) A harbour direction may relate to—

- (a) the movement of ships [\[includes watercraft\]](#);
- (b) mooring or unmooring;
- (c) equipment (including nature and use);
- (d) the manning of ships [\[includes watercraft\]](#).

(3) A harbour direction may require ~~the master of any person responsible for~~ a ship [\[includes a watercraft\]](#) to provide information to a specified person in a specified manner.

(4) “*Designated harbour authority*” means—

- (a) a harbour authority for a harbour that is wholly in Wales other than a reserved trust port who are designated by order of the Welsh Ministers,
- (b) a harbour authority for any other harbour in England or Wales who are designated by order of the Secretary of State, and
- (c) a harbour authority for a harbour in Scotland who are designated by order of the Scottish Ministers.

(5) A harbour direction is subject to any direction under [section 52](#) of the [Harbours, Docks and Piers Clauses Act 1847](#) (directions by harbour master).

(6) A harbour authority may not give a harbour direction which conflicts with an enactment.

7) An order designating a harbour authority may amend or repeal any statutory provision of local application which the person making the order thinks is—

- (a) inconsistent with the power to give harbour directions, or
- (b) unnecessary as a result of the power.

40B Procedure

- (1) Harbour directions must be in writing.
- (2) Before giving harbour directions a harbour authority must consult such representatives of users of the harbour as the authority think appropriate.
- (3) A harbour authority must make such arrangements as they think appropriate for publicising a proposed harbour direction for at least 28 days before it is given.
- (4) A harbour authority must—
 - (a) make harbour directions available for inspection, and
 - (b) supply a copy to anyone who requests it.
- (5) A harbour authority may charge for the supply of copies.
- (6) As soon as is reasonably practicable after giving a harbour direction the harbour authority must publish a notice in a newspaper specialising in shipping news—
 - (a) stating that a harbour direction has been given, and
 - (b) giving details of the arrangements for the inspection and supply of copies of harbour directions.

40C Enforcement

- (1) ~~The master of~~ Any person responsible for a ship [includes a watercraft] must ensure that harbour directions are complied with.
- (2) Breach of subsection (1) without reasonable excuse is an offence.
- (3) A person guilty of the offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

40D Supplemental

- (1) Harbour directions—
 - (a) may make provision that applies generally or only in relation to specified circumstances, areas, periods or descriptions of ship [includes watercraft], and
 - (b) may make different provision for different circumstances, areas, periods or descriptions of ship [includes watercraft].
- (2) Harbour directions may be varied or revoked by subsequent harbour directions.
- (3) In section 40A—

“mooring” includes casting anchor, and

“unmooring” includes weighing anchor.

Merchant Shipping (EPIRB Registration) Regulations 2000

5.— Requirements for equipment

(1) Subject to paragraph (2), where under international instruments equipment must be approved by the flag state administration, that equipment must comply with applicable international standards when it is placed on board a ship [\[includes a watercraft\]](#).

(2) When equipment is placed on board a domestic passenger ship [\[includes a watercraft\]](#) or a fishing vessel and that equipment is listed in Annex 1 or 2 of Merchant Shipping Notice MSN 1874 Amendment 3 it must comply with—

- (a) applicable international standards;
- (b) an alternative standard; or
- (c) (where there is no requirement to place that equipment on board a ship [\[includes a watercraft\]](#) but it is placed on board voluntarily) the standard specified by the Secretary of State.

(3) When equipment listed in Annex 3 of Merchant Shipping Notice MSN 1874 Amendment 3 is placed on board a ship [\[includes a watercraft\]](#) it must comply with applicable UK standards.

(4) Equipment listed in Annex 1 of Merchant Shipping Notice MSN 1874 Amendment 3 must be taken to comply with applicable international standards where it is—

- (a) approved by an approved body, accompanied by—
 - (i) a declaration of United Kingdom conformity under [regulation 14](#); and
 - (ii) affixed with a conformity mark under [regulation 15](#);
- (b) approved by an EU notified body, accompanied by an EU declaration of conformity and affixed with an EU conformity mark; or
- (c) approved by a recognised third country other than the United States of America and accompanied by such declarations and marks of conformity (if any) as the Secretary of State may specify.

(4A) Equipment listed in Annex 6 of Merchant Shipping Notice MSN 1874 Amendment 3 must be taken to comply with applicable international standards where it is—

- (a) approved by the United States Coast Guard;
- (b) accompanied by a US declaration of conformity; and
- (c) affixed with the United Kingdom conformity mark.

(4B) Paragraph (4A) does not apply to any equipment in respect of which approval has been suspended in accordance with Article 15 of the Agreement.

(5) Equipment listed in [Annex 2 of Merchant Shipping Notice MSN 1874 Amendment 3 must be taken to comply with applicable international standards or an alternative standard where it is accompanied by a certificate under [regulation 18](#).

(6) In this regulation “*alternative standard*” means a standard specified as an alternative to an applicable international standard in any instrument listed in Annex 4 of Merchant Shipping Notice MSN 1874 Amendment 3.

6.— Exemptions

(1) The Secretary of State may allow equipment that does not comply with applicable international standards to be placed on board a ship [includes a watercraft], provided that the Secretary of State is satisfied, by whatever means, that—

- (a) compliance with applicable international standards is either impracticable or unreasonable in that case or cases; and
- (b) the exemption is subject to such conditions and limitations as will provide a level of safety which is at least equivalent to that provided by applicable international standards.

(2) The Secretary of State may, on reasonable notice, alter or cancel any exemption granted under paragraph (1).

(3) An exemption granted under paragraph (1) and an alteration or cancellation under paragraph (2) must be given in writing and must specify the date on which it takes effect and the terms (if any) on which it is given.

20.— Obligations of a Manufacturer

(1) A manufacturer must ensure that—

- (a) a United Kingdom conformity assessment is carried out in respect of all marine equipment using one of the procedures referred to in paragraph (1A);
- (b) marine equipment is marked in accordance with [regulation 15](#) (affixing the United Kingdom conformity mark); and
- (c) keep the technical documentation specified in [Schedule 2](#) and the United Kingdom declaration of conformity for the relevant period.

(1A) The procedures mentioned in paragraph (1)(a) are—

- (a) where the United Kingdom type-examination as outlined in [Part 1 of Schedule 2](#) (module B) is to be used, before being placed on the market, all marine equipment must be subject to—
 - (i) production-quality assurance as outlined in [Part 2 of Schedule 2](#) (module D);
 - (ii) product-quality assurance as outlined in [Part 3 of Schedule 2](#) (module E);
 - or
 - (iii) product verification as outlined in [Part 4 of Schedule 2](#) (module F);
- (b) where sets of marine equipment are produced individually or in small quantities and not in series or in mass, the conformity assessment procedure may be the unit verification as set out in [Part 5 of Schedule 2](#) (module G).

(2) A manufacturer must undertake to fulfil any obligation arising from a quality system approved under [regulation 12\(2\)\(b\)](#) and must ensure that quality system is maintained.

(3) A manufacturer must ensure—

- (a) its name,

- (b) a type, batch or serial number or other element allowing identification of its product,
- (c) its registered trade name or trade mark, and
- (d) the address at which it can be contacted,

is on any equipment or, where that is not possible, on the packaging of that equipment or in a document accompanying that equipment or both, as appropriate.

- (4) A manufacturer must provide with any equipment—
 - (a) clear instructions and all necessary information for that equipment to be installed and operated safely; and
 - (b) any other documentation required by international instruments.
- (5) Where a manufacturer knows or has reason to believe that its equipment does not comply with applicable international standards, that manufacturer must—
 - (a) take immediate corrective measures to ensure that the equipment complies with applicable international standards;
 - (b) withdraw the equipment from the [United Kingdom] market; or
 - (c) issue a recall of the equipment.
- (6) Where a manufacturer considers that equipment presents a risk, that manufacturer must immediately inform the [Secretary of State]³ of the risk and provide details of any non-compliance with applicable international standards and any action taken in accordance with paragraph (5).
- (7) On request by the Secretary of State, a manufacturer must provide to the Secretary of State—
 - (a) samples of equipment approved by an approved body at the manufacturer's own cost; or
 - (b) access to such samples.
- (8) This regulation applies to an importer or a distributor as if that person were a manufacturer where the importer or distributor—
 - (a) places equipment on the United Kingdom market or on board a ship [includes a watercraft] under the importer or distributor's own name or trademark; or
 - (b) modifies equipment already placed on the United Kingdom market or on board a ship [includes a watercraft] in such a way that compliance with applicable international standards may be affected.
- (9) In this regulation— “*clear instructions*” means instructions in a form and language which the user easily understands.

21. Obligations of an importer

An importer which places on the market or on board a ship [includes a watercraft] any equipment accompanied by a declaration of conformity under [regulation 14](#) must ensure that—

- (a) its name,
- (b) registered trade name or trade mark, and
- (c) the address at which it can be contacted,

is on the equipment or, where that is not possible, on the packaging of the equipment or in a document accompanying the equipment or both, as appropriate.

23.— Restricting, suspending or withdrawing [United Kingdom]1 conformity approval

(1) An approved body may by giving notice to the manufacturer restrict, suspend or withdraw EU conformity approval of equipment or a quality system where a manufacturer fails—

- (a) to take corrective measures required under regulation 12(5); or
- (b) to comply with regulation 16 or 20(1) to (6).

(2) Before issuing a notice under paragraph (1), an approved body must give the manufacturer an opportunity to make written representations.

(3) A notice under paragraph (1) must—

- (a) be in writing;
- (b) specify the date on which it is to take effect; and
- (c) specify the grounds for the decision.

(4) The approved body must send a copy of any notice given under paragraph (1) to the Secretary of State.

25.— Defective Equipment

(1) The Secretary of State may—

- (a) direct an economic operator to withdraw or recall defective equipment from the United Kingdom market;
- (b) prohibit or restrict the extent to which an economic operator may place defective equipment on the United Kingdom market; or
- (c) prohibit or restrict the use of defective equipment on ships [includes watercraft].

(2) Before issuing a direction, prohibition or restriction, the Secretary of State must notify any economic operator in writing and give the economic operator, not less than 10 days, to make written representations.

(3) The Secretary of State may withdraw or vary a direction, prohibition or restriction.

(4) In this regulation— “defective equipment” means equipment to which regulation 5(1) applies that is specified in Annex 1 of Merchant Shipping Notice MSN 1874 Amendment 3 or Annex 6 of Merchant Shipping Notice MSN 1874 Amendment 3 and complies with applicable international standards, but which, in the opinion of the Secretary of State—

- (a) may compromise the health and safety of the ship's crew [includes the watercraft's operator], passengers or other persons; or
- (b) adversely affect the marine environment.

26.— Offences and penalties

(1) The owner and master of a ship [includes a watercraft] are each guilty of an offence, where—

- (a) equipment is placed on a ship otherwise than in compliance with regulation 5;

or

(b) any of the restrictions or conditions imposed by a certificate issued under regulation 10 are not complied with].

(2) It is an offence for a person—

- (a) to affix a conformity mark to equipment which has not been granted EU conformity approval;
- (b) to fail to comply with regulation 14, 15, 20, 21 or 22;
- (c) to forge, counterfeit or otherwise alter, deface or remove any conformity mark or identification number affixed to equipment under these Regulations; or
- (d) to fail to comply with a direction, prohibition or restriction given under regulation 25.

(3) A person guilty of an offence under this regulation is liable—

(a) on summary conviction—

- (i) in England and Wales to a fine, and
- (ii) in Scotland and Northern Ireland to a fine not exceeding the statutory maximum,

or

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

(4) Where a body corporate is guilty of an offence under this regulation and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of an offence.

(5) Where the affairs of the body corporate are managed by its members, paragraph (4) applies in relation to the acts and defaults of a member in connection with that member's functions of management as if that member were a director of the body corporate.

(6) Where an offence under this regulation is committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of that offence.

(7) In any proceedings for an offence under these Regulations, it is a defence for the person charged to show that all reasonable steps had been taken by that person to ensure compliance with the provision concerned.

27.— Powers to detain

1) A ship [includes a watercraft] is liable to be detained where a surveyor of ships is satisfied that there is or has been a failure—

- (a) to comply with regulation 5(1); or
- ~~(b) by the owner of a ship to comply with a direction issued under regulation 10(2).~~

(2) Section 284(1) to (6) and (8) of the Act (enforcing detention of ship) applies to a ship [includes a watercraft] which is liable to be detained under this regulation as if references

to detention of a ship [includes a watercraft] under the Act were references to detention of the ship [includes a watercraft] in question under this regulation.

(3) Where a ship is liable to be detained under this regulation the person detaining the ship must serve on the master of the ship [includes owner of the watercraft] a detention notice which—

- (a) states that a surveyor of ships is of the opinion that, in relation to that ship, there is a failure to comply with the requirements of regulation 5(1) ~~or a direction issued under regulation 10(2)~~;
- (b) details the reasons that the surveyor is of the opinion those requirements of regulation 5(1) ~~or a direction issued under regulation 10(2)~~ are not met; and
- (c) requires the terms of the notice to be complied with until the ship is released.

(4) Sections 96 and 97 of the Act (which relate to arbitration and compensation in connection with detention of a ship) apply in relation to a detention notice under this regulation as those sections apply to a detention notice under section 95 of the Act with the following modifications—

- (a) the arbitrator must have regard in coming to a decision to any other matters not specified in the detention notice which appear to be relevant to whether or not the ship [includes a watercraft] was liable to be detained under paragraph (1); and
- (b) the arbitrator must state in the decision whether or not there was a valid basis for detention of the ship [includes a watercraft].

Merchant Shipping (Distress Signals & Prevention of Collisions) Regulations 1996

[NB: The whole instrument is applicable but only regulation 2 is reproduced here for the sake of reference in terms of modifications made by the draft Order.]

2.— Application

(1) These Regulations apply to the following vessels—

- (a) United Kingdom ships [includes watercraft registered in the United Kingdom under the Merchant Shipping Act 1995] wherever they may be, and other ships [includes other watercraft] while within the United Kingdom or the territorial waters thereof; and
- (b) seaplanes registered in the United Kingdom and on the surface of water anywhere, and other seaplanes on the surface of water in the United Kingdom or the territorial waters thereof.

(2) In this regulation “ships” include hovercraft.

Merchant Shipping (EPIRB Registration) Regulations 2000

4.— Competent authority

- (1) For the purposes of these Regulations, HM Coastguard is designated as the competent authority for the United Kingdom.
- (2) In these Regulations in relation to any other member State of the International Telecommunication Union “competent authority” means the authority designated as such by the State as the authority in that State for registering the details of EPIRBs.

5.— Requirement for EPIRBs to be registered

(1) The owner and the operator of every United Kingdom ship [includes every watercraft in UK waters] shall ensure that every EPIRB carried on the ship [includes the watercraft] (whether or not carried in compliance with statutory requirements) is registered with a competent authority and that the registered particulars are correct.

- (2) The registered particulars referred to in paragraph (1) are the following—
- (a) EPIRB identification code (if applicable) and its homing frequency;
 - (b) country where the watercraft is registered;
 - (c) brief description of the watercraft, including its type and identifying marks;
 - (d) name, address, telephone and (if applicable) telefax number of emergency contact person ashore;
 - (e) alternative 24-hour emergency contact telephone number (alternative contact ashore);
 - (f) capacity of watercraft for carrying persons;
 - (g) date of last modification of registered particulars.

~~2) The registered particulars referred to in paragraph (1) are the following:-~~

- ~~(a) ship name;~~
- ~~(b) MMSI;~~
- ~~(c) radio call sign;~~
- ~~(d) EPIRB identification code (if applicable) and its homing frequency;~~
- ~~(e) country where the ship is registered;~~
- ~~(f) brief description of ship, including its type, gross tonnage, ship superstructure, deck colours and identifying marks;~~
- ~~(g) name, address, telephone and (if applicable) telefax number of emergency contact person ashore;~~
- ~~(h) alternative 24-hour emergency telephone number (alternative contact ashore);~~
- ~~(i) capacity of ship for carrying persons on board (passengers and crew);~~
- ~~(j) radio installations carried on board the ship and survival craft;~~
- ~~(k) type and number of survival craft; and~~
- ~~(l) date of last modification of registered particulars.~~

(3) Evidence that every EPIRB carried on the ship [includes the watercraft] is registered in accordance with paragraph (1) above shall be readily available on board for inspection at all times by a surveyor of ships.

6. Change in registered particulars

Where in respect of an EPIRB registered with a competent authority there is any change in the particulars registered with that competent authority, the owner and the operator of the ship [includes the watercraft] to which those particulars relate shall, as soon as is reasonably practicable after the change, give written notice of it to the competent authority.

7.— Offences

(1) Any contravention of regulation 5(1) or 6 shall be an offence by the owner and the operator of the ship [includes the owner (but not the operator) of the watercraft] punishable on summary conviction by a fine of an amount not exceeding level 3 on the standard scale.

(2) Any contravention of regulation 5(3) shall be an offence by the owner and the operator of the ship [includes the owner (but not the operator) of the watercraft] punishable on summary conviction by a fine of an amount not exceeding level 2 on the standard scale.

8. Defence

It shall be a defence for a person charged under these Regulations to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

Annex C: List of consultation questions

Question 1: Is new legislation necessary in this area?

Question 2: Are the personal watercraft ownership and accident figures quoted above an accurate representation? NB: If you provide alternative figures, please quote the source and include evidence of their reliability.

Question 3: Does the proposed definition of “watercraft” meets the intended aim of bringing all PWCs, recreational and other watercraft back within scope of safety and misuse requirements? Are the intended exclusions appropriate?

Question 4: Should the UK Ship Register should be open on a voluntary basis to watercraft owners?

Question 5: Should the provisions of section 58 of the MSA 1995 be applied to watercraft and, if so, which ones?

Question 6: Should the power of detention be available to enforcement officials to ensure dangerously unsafe watercraft are not used on the water?

Question 7: Should the provisions of section 100 of the MSA 1995 be applied to the owners of watercraft and, if so, which ones?

Question 8: Should the provisions of sections 85 and 86 of the MSA 1995 be applied to watercraft and, if so, which ones?

Question 9: Should the same definition of “watercraft” be used for the purposes of the Harbours Act 1964?

Question 10: Should these consequential amendments to incorporate watercraft within related merchant shipping legislation be made?

Question 11: Are there any significant new costs or administrative burdens which might be created as a result of the introduction of this legislation? What is your assessment of these?

Question 12: What, if any, documentary evidence are you able to supply that alcohol or drug use among recreational mariners is leading to safety concerns or an increased number of accidents or incidents? Are you aware of any recent prosecutions for related offences?

Annex D: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles.

Further information is available at www.gov.uk/government/publications/consultation-principles-guidance.

If you have any comments about the consultation process, please contact:

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London SW1P 4DR
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