

GIBRALTAR MERCHANT SHIPPING (APPLICATION OF UNITED KINGDOM PROVISIONS AND STANDARDS) REGULATIONS 1997

(LN. 1997/161)

22.12.1997

Amending enactments	Relevant current provisions	Commencement date
None		

ARRANGEMENT OF REGULATIONS

Regulation

1. Title and commencement.
2. Application of legislation of the United Kingdom.
3. Application to a ship other than a registered ship.

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**GIBRALTAR MERCHANT SHIPPING (APPLICATION OF UNITED
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Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Application of United Kingdom Provisions and Standards) Regulations 1997 and shall come into effect on the day appointed by the Governor as the day on which all sections except section 59(4) and (5) and section 121(1) of the Gibraltar Merchant Shipping (Safety, etc.) Act, 1993 shall come into effect.

Application of legislation of the United Kingdom.

2.(1) Subject to subregulation (3), for the purpose of—

- (a) giving effect to the requirements of the Act in respect of ships registered under Part III or as a result of the application of Part VIII of the Gibraltar Merchant Shipping (Registration Act) 1993, or in respect of which an application for registration has been made; and
- (b) permitting the Maritime Administrator to fulfill his duties under the Act,

where in the Act there is reference to regulations which may be or shall be made under the Act that reference shall be deemed to be reference to the relevant legislation of the United Kingdom made for the purpose of regulating British ships registered in the United Kingdom (which expression shall in this regulation include a ship in respect of which an application has been made for registration of that ship as a British ship registered in the United Kingdom) in respect of the matter or matters for which the Act provides that regulations may or shall be made, and, where by virtue of this regulation the relevant legislation of the United Kingdom has been made effective in relation to a registered ship, or a ship in respect of which an application has been made for registration, the obligation or power, as the case may be, under the Act to make regulations shall be deemed to be satisfied.

(2) Subject to subregulation (3), where in the Act there is provision for the making of regulations the relevant legislation of the United Kingdom, notwithstanding that that legislation may have been repealed or revoked, as the case may be, in respect of its application to British ships registered in the United Kingdom, shall be applied to the registered ship, or to the ship in respect of which an application has been made for registration, and, subject to the provisions of this regulation, that relevant legislation shall be deemed to be regulations made under the Act:

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Provided that where relevant legislation of the United Kingdom is or has been repealed or revoked in relation to British ships registered in the United Kingdom and replaced or substituted by relevant legislation of the United Kingdom dealing with a matter falling to be dealt with by regulations made under the Act the relevant legislation of the United Kingdom made in replacement or substitution shall be that applied by virtue of this regulation.

- (3) Subregulations (1) and (2) shall not apply to—
- (a) any matters dealt with by regulations made from time to time under the Act;
 - (b) any relevant legislation of the United Kingdom the application of which would be contrary to section 5(2);
 - (c) subject to subregulation (5), any fine provided for in relevant legislation of the United Kingdom which would exceed the maximum provided for in section 120(3);

(4) Where in any relevant legislation of the United Kingdom there is reference to—

- (a) an individual or person, other than an owner, bareboat charterer, pilot, master or crew of a British ship registered in the United Kingdom; or
- (b) a Crown servant of the United Kingdom; or
- (c) an agency of the Government of the United Kingdom or to an officer of such an agency;

having in the United Kingdom a function, a power or the responsibility for any matter in the United Kingdom or elsewhere in relation to a British ship registered in the United Kingdom, the Maritime Administrator shall make such administrative instructions as are necessary for the purpose of—

- (d) confirming that that person, Crown servant, agency or officer, as the case may be, shall perform that function, exercise that power or have that responsibility, as the case may be, in relation to the application of that relevant legislation of the United Kingdom in respect of registered ships, or ships in respect of which application has been made for registration; or
- (e) with the consent of the Minister for Tourism and Transport first granted, substituting some other person falling within the descriptions of persons in paragraphs (a) to (c) inclusive for the person referred to; or

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- (f) substituting himself or an officer, within the meaning of that word in section 3, competent to be so substituted,

and such administrative instructions shall be published and made available as provided for in section 3(5).

(5) Where in any relevant legislation of the United Kingdom applied by virtue of this regulation to registered ships, or ships in respect of which an application has been made for registration, there is provision for a fine in excess of the maximum fine provided for in section 120(3) there shall be substituted therefor in relation to offences committed under that relevant legislation of the United Kingdom as applied by this regulation to a registered ship, or a ship in respect of which an application has been made for registration, a reference to a fine at level 5 on the standard scale.

- (6) Where in the Act there is reference to regulations—

- (a) to provide for compliance with—

- (i) provisions of any Convention of the International Labour Organisation which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar;
- (ii) any relevant International Convention which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar;
- (iii) any international agreement which relates to the safety of ships and persons on them or to the protection of other persons or which relates to the prevention, reduction or control of pollution of the sea or other waters by matters from ships which has been entered into by the United Kingdom and extended to Gibraltar;

- (b) to give proper effect to a section or sections of the Act,

the relevant legislation of the United Kingdom shall be deemed to satisfy the requirements of paragraphs (a) or (b), whichever shall be the requirement of the Act to be satisfied by the application of the relevant legislation of the United Kingdom to the registered ship, or the ship in respect of which an application for registration has been made.

(7) Relevant legislation of the United Kingdom applied to a registered ship, or a ship in respect of which an application has been made for registration, by virtue of this regulation shall be deemed to be amended—

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- (a) to the extent necessary to comply with the provisions of the Act and shall in no case require anything which shall be inconsistent with or ultra vires the provisions of the Act and, where in the provisions of the Act by virtue of and for the purpose of satisfying the requirements of which, relevant legislation of the United Kingdom is applied there is reference to the Maritime Administrator doing or not doing something, reference to the Maritime Administrator shall be substituted for the reference to any other person, Crown servant, agency or officer to whom reference is made in the relevant legislation of the United Kingdom;
- (b) by substituting for references to the law of the United Kingdom, other than relevant legislation of the United Kingdom, references to the equivalent law of Gibraltar.

(8) Where it appears to the Maritime Administrator that the relevant legislation of the United Kingdom is silent on a matter in respect of which the Act provides that regulations shall or may be made, the Maritime Administrator shall, after consultation with the Marine Safety Agency of the United Kingdom, make provision by administrative instructions for such matters as in his view are necessary for the purposes of section 3(5) and such administrative instructions shall remain effective until such time, which shall as soon as may be, as regulations are made under the Act in respect of the matter.

(9) Where any relevant legislation of the United Kingdom is by virtue of this regulation applicable to ships registered in Gibraltar, or to ships in respect of which an application has been made for registration, and is so applicable in satisfaction of any obligation or power under section 59, that relevant legislation of the United Kingdom as applied shall extend to a registered ship, or a ship in respect of which an application has been made for registration, outside Gibraltar to the extent that the relevant legislation of the United Kingdom extends outside the United Kingdom in respect of a British ship registered in the United Kingdom.

(10) Where in the Act there is reference to a surveyor, being a surveyor appointed under section 52, that reference and section 52 shall be interpreted in respect of any relevant legislation of the United Kingdom applied to a registered ship, or a ship in respect of which an application has been made for registration, as a reference to a person who would qualify under the relevant provisions of the legislation of the United Kingdom as a surveyor for the purposes of that relevant provision as it applies in respect of a British ship registered in the United Kingdom or seeking to be registered.

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(11) Where in the Act there is provision for the Maritime Administrator to grant an exemption from compliance with the provisions of the Act or any regulations made under the Act or to exercise a discretion, such exemption shall be granted or refused, or the discretion of the Maritime Administrator shall be exercised in accordance with the criteria contained in relevant legislation of the United Kingdom in this respect or, in the absence of provision in the relevant legislation in respect of the granting, or not, of such exemption or the exercising of that discretion, in accordance with the normal practice of the Marine Safety Agency of the United Kingdom in respect of the granting, or not, of such exemption or the exercising of that discretion, as the case may be.

(12) Where in the Act or in the relevant legislation of the United Kingdom there is reference to a standard that standard shall be that of or accepted by the appropriate competent authority of the United Kingdom.

(13) For the purposes of these Regulations “relevant legislation of the United Kingdom” means–

- (a) primary legislation of the United Kingdom even if, but for this regulation, that legislation would not have been applicable in Gibraltar;
- (b) secondary legislation of the United Kingdom howsoever expressed to be made and which is applicable to British ships registered in the United Kingdom, and for the avoidance of doubt this shall include secondary legislation made under the European Communities Act 1972;
- (c) any provision which by virtue of any international commitment entered into by the Government of the United Kingdom is directly applicable without more to a British ship registered in the United Kingdom;
- (d) legislation of the United Kingdom intended to give effect in respect of a British ship registered in the United Kingdom to any Convention listed in the Schedule to the Act;
- (e) “M” Notices, or the equivalent thereof from time to time, issued by the Marine Safety Agency of the United Kingdom;
- (f) regulations imposing fees in respect of matters dealt with by legislation of the United Kingdom and by these Regulations applied to a registered ship or a ship in respect of which an application has been made for registration except where such fees are expressed to relate to registration.

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Application to a ship other than a registered ship.**

3. For the avoidance of doubt it is hereby declared that nothing in these Regulations shall apply to a ship other than a registered ship, or a ship in respect of which an application has been made for registration.

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