

2019 No. 509

EXITING THE EUROPEAN UNION

MERCHANT SHIPPING

SANCTIONS

**The Merchant Shipping (Registration of Ships) (Amendment)
(EU Exit) Regulations 2019**

Made - - - - - *7th March 2019*

Laid before Parliament *8th March 2019*

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by sections 9(2)(a) and (b) and 10(1), (2)(a), (b), (d), (e) (f), (g), (j), (k), (l) and (m), (3)(a), (5) and (6)(a) and (b) of the Merchant Shipping Act 1995^(a), and with the consent of the Treasury, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Registration of Ships) (Amendment) (EU Exit) Regulations 2019.

(2) Subject to paragraph (3), these Regulations come into force on 29th March 2019.

(3) Regulations 3(a)(i), (iii) and (iv), and (b), 6(a), 8, 9, 11, 12, 14 to 22, 24, 26 to 28 and 29(a)(i) and (ii) come into force on exit day.

(4) In these Regulations “exit day” has the same meaning as in section 20(1) of the European Union (Withdrawal) Act 2018^(b).

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

2. The Merchant Shipping (Registration of Ships) Regulations 1993^(c) are amended in accordance with regulations 3 to 31.

3. In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2)—

(i) after the definition of “the Registrar” insert—

(a) 1995 c. 21.

(b) 2018 c. 16.

(c) S.I. 1993/3138, preserved by virtue of section 17(2)(b) of the Interpretation Act 1978 (c. 30) following the consolidation of the Merchant Shipping (Registration etc.) Act 1993 (c. 22) by the Merchant Shipping Act 1995 (c. 21), and as amended by the British Overseas Territories Act 2002 (c. 8) and S.I. 1994/541, 1998/1915, 1998/2976, 1999/3206, 2017/879, 2018/1221 and 2018/1299; there are other amending instruments but none is relevant.

““relevant provisions of the sanctions regulations” means regulation 77(1) and (2) of the Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019(a);”

(ii) after the definition of “salmon coble” insert—

““settled” has the same meaning as in section 33(1) of the Immigration Act 1971(b);”,

(iii) in the definition of “ship” after “the purposes of” insert “the definition of “termination direction”, paragraph (3),” and

(iv) after the definition of “surveyor of ships” insert—

““termination direction” means a direction to terminate the registration of a ship given to the Registrar under regulation 77(3) of the Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019;”, and

(b) after paragraph (2) insert—

“(3) For the purposes of these Regulations, a ship is a “sanctioned ship” if—

(a) were an application for registration in the Register to be made in respect of it, the Registrar would be required to refuse registration because of the relevant provisions of the sanctions regulations; or

(b) a termination direction has been issued in relation to the ship.”.

4. In regulation 2(6) (the Register), after “certificate of registry” insert “or permission”.

5. In regulation 7(1) (persons qualified to be owners of ships to be registered on Part I of the Register)—

(a) after sub-paragraph (e), insert—

“(ea) Commonwealth citizens;

(eb) citizens of a country listed in Schedule 6;

(ec) non-United Kingdom nationals who are settled in the United Kingdom;

(ed) bodies corporate incorporated in a Commonwealth state;

(ee) bodies corporate incorporated in a country listed in Schedule 6;” and

(b) in sub-paragraph (g), omit the words from “and having” to “possession”.

6. In regulation 8 (British connection and majority interest)—

(a) in paragraph (1) after “Subject to” insert “the relevant provisions of the sanctions regulations;”;

(b) in paragraph (2), for “regulation 7(1)(a), (b), (e), (f) or (h)”, substitute “regulation 7(1), other than sub-paragraphs (c), (d) or (g)”;

(c) in paragraph (5)(a), for “regulation 7(1)(a), (b), (e), (f), or (h)”, substitute “regulation 7(1), other than sub-paragraphs (c), (d) or (g)”.

7. In regulation 9(b), omit “, being a body incorporated in a member State.”.

8. In regulation 13(1) (eligibility), after “Subject to” insert “the relevant provisions of the sanctions regulations;”.

9. After regulation 22(3) (applications for registration), insert—

“(4) Every application for registration of a ship must confirm that the ship is not a sanctioned ship.”.

10. In regulation 24(b)(i), omit “member”.

(a) S.I. 2019/411.

(b) 1971 c. 77. The definition refers to section 33(2A) which was inserted by section 39(6) and paragraph 7(b) of Schedule 4 to the British Nationality Act 1981 (c. 61).

- 11.** In regulation 31 (allocation of official number and port of choice)—
- (a) in paragraph (2) for “On” substitute “Subject to paragraph (2A), on”; and
 - (b) after paragraph (2) insert—
“(2A) The Registrar is not required to carry out any of the actions mentioned in paragraph (2) if the Registrar is satisfied that the ship is a sanctioned ship.”.
- 12.** In regulation 36(1) (registration and refusal of registration), after “subject to” insert “the relevant provisions of the sanctions regulations and”.
- 13.** In regulation 39 (period of registration), after “Subject to” insert “regulation 87L(6) and”.
- 14.** For regulation 42(1) (application for renewal of registration), substitute—
- “(1) Application for renewal shall be in a form approved by the Secretary of State and shall be accompanied by—
 - (a) a declaration of eligibility,
 - (b) a declaration that there have been no changes to any registered details of the ship that have not been notified to the Registrar,
 - (c) in respect of all fishing vessels, except those below 24 metres in length to which part IIA of the Tonnage Regulations does not apply, a declaration that the fishing vessel is correctly measured for tonnage under those Regulations, and
 - (d) confirmation that the ship is not a sanctioned ship.”.
- 15.** For regulation 47 (declaration of eligibility on transfer or transmission), substitute—

“Declaration of eligibility on transfer or transmission

47. Every application for the registration of a transfer or transmission of a registered ship or a share in a registered ship shall be accompanied by—

- (a) a declaration of eligibility,
- (b) confirmation that the ship is not a sanctioned ship, and
- (c) where the application is made on behalf of a body corporate, the documents mentioned in regulation 24.”.

- 16.** After regulation 48(2) (refusal of registration of transfer or transmission), insert—
- “(3) If, on an application for transfer or transmission of a ship or shares in a ship, the Registrar is satisfied that the ship is a sanctioned ship—
 - (a) the Registrar must serve a notice on the owner of the ship in accordance with paragraph (4), and
 - (b) the ship’s registration terminates at the end of the day on which that notice is served. - (4) The notice must state that the ship’s registration terminates under paragraph (3) at the end of the day on which the notice is served.”.
- 17.** In regulation 56 (removal from the register)—
- (a) in paragraph (1)—
 - (i) after sub-paragraph (aa), insert—
“(ab) on determining that, at the time of registration, the ship was not eligible to be registered;”, and
 - (ii) after sub-paragraph (b) insert—
“(ba) on receipt of a termination direction relating to the ship;”; and
 - (b) in paragraph (2), after “under (a)” insert “, (ba)”.

- 18.** In regulation 72 (transfer of registration from a relevant British possession)—

(a) in paragraph (1) for “Where” substitute “Subject to paragraph (1A), where”, and

(b) after paragraph (1) insert—

“(1A) The registration of a ship may not be transferred to Part I of the Register if the Registrar is satisfied that the ship is a sanctioned ship.”

19. After regulation 77(3)(a) (applications), insert—

“(ab) confirmation that the ship is not a sanctioned ship;”.

20. In regulation 80 (marking)—

(a) in paragraph (1) for “On” substitute “Subject to paragraph (1A), on”, and

(b) after paragraph (1) insert—

“(1A) Paragraph (1) does not apply if the Registrar is satisfied that the ship is a sanctioned ship.”.

21. In regulation 82(1) (registration), for “Where” substitute “Subject to the relevant provisions of the sanctions regulations, where”.

22. After regulation 87(1)(b) (closure of bareboat charter ship’s registration by the Registrar), insert—

“(ba) on determining that, at the time of registration, the ship was not eligible to be registered;

(bb) on receipt of a termination direction relating to the ship;”.

23. After regulation 87 (closure of bareboat charter ship’s registration by the Registrar), insert the following—

“PART 10A

BAREBOAT CHARTER-OUT

Suspension from the Register

87A.—(1) This Part provides for the suspension of the registration of a ship.

(2) Where the registration of a ship has been suspended in accordance with this Part, the ship is not registered under Part II of the Act.

(3) Where the registration of a ship is suspended, the Registrar shall mark the entry in the Register relating to that ship as suspended.

(4) The registration of a ship which is suspended may be restored under regulation 87L.

(5) Notwithstanding the suspension of the registration of the ship, the entry relating to a ship in the Register may be removed from the Register under regulation 87M.

Suspension under a Certificate of Permission

87B. The registration of a ship is suspended if the Registrar has issued a certificate of permission under regulation 87D and has not, after the issue of that certificate of permission, either restored the registration of the ship under regulation 87J or removed the entry relating to the ship from the Register under regulation 87M.

Application for Certificate of Permission

87C.—(1) An owner of a ship who intends to agree, or has agreed, a charter-party that requires the ship to be registered outside the United Kingdom during the period of the charter-party may apply for a certificate of permission.

(2) An application for a certificate of permission must be in a form approved by the Secretary of State, and must include, or be accompanied by—

- (a) the ship's name and official number;
- (b) the written consent of all owners;
- (c) the written consent of all mortgagees of mortgages registered in respect of the ship under Part VII;
- (d) a copy of the charter-party;
- (e) the names of the bareboat charterers;
- (f) the name of the registry that the ship will be chartered to; and
- (g) subject to regulation 111, the certificate of registry.

Conditions for Certificate of Permission

87D.—(1) The Registrar must issue a certificate of permission where the Registrar is satisfied that the conditions in paragraph (2) and the marking requirement in paragraph (3) are met.

(2) The conditions are—

- (a) that the ship is currently registered on Part I of the Register;
- (b) that all owners consent;
- (c) that all mortgagees of mortgages registered in respect of the ship under Part VII consent;
- (d) that a charter-party has been agreed in respect of the ship, and
- (e) that the charter-party requires that the ship be registered on an approved register.

(3) The marking requirement is that the marking of the ship has been removed and written confirmation of that removal has been sent to the Registrar pursuant to regulation 113.

(4) For the purposes of paragraph (2), an 'approved register' is a register of—

- (a) an EEA state;
- (b) a Commonwealth state; or
- (c) a country listed in Schedule 6.

Removal of Marking

87E.—(1) Where the Registrar is satisfied in respect of an application that the conditions in regulation 87D(2) are met, the Registrar must issue a marks removal note.

(2) The effect of a valid marks removal note in respect of a ship is that the ship is not required to be marked under these Regulations.

(3) A marks removal note is valid for a period of six weeks from the date it is issued, unless extended under paragraph (4)(a).

(4) If the Registrar is not satisfied that the marking requirement in regulation 87D(3) is met before the end of the period of validity of the marks removal note, the Registrar must either—

- (a) extend, or further extend, the period of validity of the marks removal note; or
- (b) treat the application for a certificate of permission as withdrawn at the end of the period of validity of the marks removal note.

(5) The Registrar may extend the period of validity of a marks removal notice pursuant to paragraph 4(a) notwithstanding that the Registrar has previously extended the period in respect of that marks removal note.

Format and Duration of Certificate

87F.—(1) A certificate of permission must be in a form approved by the Secretary of State, and must state—

- (a) the name of the ship;
- (b) the names of the owners;
- (c) the names of the bareboat charterers;
- (d) the date and duration of the charter-party;
- (e) the name of the register in which the ship is to be registered;
- (f) the date of expiry of the certificate of permission; and
- (g) that, for the period of the certificate of permission, the ship is not a United Kingdom ship and has no right to fly the flag of the United Kingdom.

(2) Unless renewed under regulation 87H, cancelled under regulation 87J or revoked under regulation 87K, a certificate of permission is valid for a period of 5 years, beginning with the date of issue of that certificate.

Cancellation of Certificate of Registry

87G. Upon issuing a certificate of permission, the Registrar must record in the Register the period of validity remaining in respect of the certificate of registry, and then cancel the certificate of registry.

Renewal of Certificate of Permission

87H.—(1) An application for renewal of a certificate of permission must be in a form approved by the Secretary of State, and must include or be accompanied by the information and documents specified in regulation 87C, and, subject to regulation 111, the current certificate of permission.

(2) The Registrar must renew a certificate of permission where the Registrar is satisfied that the conditions in sub-paragraphs (b) to (e) of regulation 87D(2) are satisfied.

(3) Where the Registrar renews a certificate of permission, the Registrar must issue a new certificate of permission, and cancel the previous certificate of permission.

Amendment of Certificate of Permission

87I.—(1) An application for amendment of a certificate of permission must—

- (a) be made in writing,
- (b) specify the details on the certificate of permission that are to be amended, and
- (c) subject to regulation 111, be accompanied by the current certificate of permission.

(2) The Registrar must accept an application for amendment if the Registrar is satisfied that the particulars furnished to the Registrar are correct and any relevant conditions in paragraph (3) are met.

(3) The conditions are—

- (a) in respect of an application to amend the ship's name, that the ship's name would comply with Schedule 1 if an application were made to approve the name by a ship registered under Part II of the Act;
- (b) in respect of an application to amend the names of the owners of the ship—
 - (i) that the Registrar is satisfied that the ship retains a British connection; and
 - (ii) that the transfer of ownership—
 - (aa) was effected by a bill of sale in a form approved by the Secretary of State with appropriate attestation, containing a description of the ship

sufficient to identify it, and that the bill of sale, or a copy thereof, has been provided to the Registrar;

- (ab) was consequent on death, and the grant of representation or a copy thereof or of an extract therefrom has been provided to the Registrar;
- (ac) was consequent on bankruptcy, and evidence of proof of title of persons claiming under bankruptcy has been provided to the Registrar; or
- (ad) was consequent on an order of a court, and a copy of the order or judgment of that court has been provided to the Registrar;

- (c) in respect of an application to amend the register where the ship may be registered, that that register is an approved register.

(4) Where the Registrar accepts an application to amend a certificate of permission, the Registrar must issue an amended certificate of permission with the amended details, and cancel the previous certificate of permission.

(5) Notwithstanding the suspension of the entry, where an amended certificate of permission issued under paragraph (4) contains details which are different from those recorded in the entry in the Register in respect of the ship, the Registrar must amend the Register accordingly.

(6) Where the Registrar refuses an application to amend a certificate of permission, the Registrar must consider whether to revoke the certificate of permission.

Cancellation

87J.—(1) An application to cancel a certificate of permission must—

- (a) be in a form approved by the Secretary of State,
- (b) include the written consent of all owners, and
- (c) subject to regulation 111, must be accompanied by the certificate of permission.

(2) Upon receipt of a valid application under paragraph (1), the Registrar must cancel the certificate of permission.

Revocation

87K.—(1) Subject to regulation 101, the Registrar may revoke a certificate of permission where the Registrar is satisfied that—

- (a) if the registration of the ship were not suspended, the Registrar would terminate the ship's registration under regulation 56(1)(a), (b), (c), (d) or (g);
- (b) the details recorded on the certificate of permission are not correct, and an application to amend the certificate of permission has not been made in a reasonable period;
- (c) the ship has been flying the British flag, or
- (d) the ship has been displaying a UK port of choice.

(2) For the purposes of paragraph (1)(a), when considering if the Registrar would terminate the ship's registration under regulation 56(1)(d), the Registrar must take into account the requirements of the Merchant Shipping Acts (including any instrument made under them) as they would apply to the ship if the registration of the ship were not suspended.

(3) Where the Registrar revokes a certificate of permission, the Registrar must notify the owner.

Restoration of Registration

87L.—(1) Where a certificate of permission—

- (a) has expired without being renewed,
- (b) has been cancelled under regulation 87J, or
- (c) has been revoked under regulation 87K, and the Registrar has not removed the ship from the Register under regulation 87M,

the Registrar must issue a carving and marking note.

(2) On receipt of a carving and marking note, the owner must cause the ship to be carved and marked in accordance with Schedule 3, and, if required under regulation 33, cause the ship's carving and marking to be inspected by an inspector of marks.

(3) If a carving and marking note issued under paragraph (1) is not duly completed and returned to the Registrar within 3 months of its issue, the Registrar may cancel it and proceed to remove the entry relating to the ship from the Register under regulation 87M(1).

(4) Where the Registrar is satisfied that the ship has been duly carved and marked, the Registrar must restore the registration of the ship by removing the marking of suspension in respect of the ship in the Register.

(5) Upon restoring the registration of the ship under paragraph (4), the Registrar must issue and send to the owner a certificate of registry.

(6) The registration of a ship restored under paragraph (4) shall be valid for the period of validity recorded in the Register pursuant to regulation 87G, beginning with the date of restoration specified in the certificate of registry, and shall expire at the end of that period unless it is renewed in accordance with regulation 42.

Removal of an Entry Relating to a Suspended Ship from the Register

87M.—(1) The Registrar may remove an entry from the Register where—

- (a) the Registrar has revoked a certificate of permission under regulation 87K(1)(a);
- (b) the Registrar has revoked a certificate of permission under regulation 87K(1)(b), (c) or (d); or
- (c) the Registrar has cancelled a carving and marking note under regulation 87L(3).

(2) Where the Registrar removes the entry relating to the ship from the Register, the Registrar must issue a closure transcript and notify any mortgagees of the removal of the entry from the Register.”

24. In regulation 87K(1)(a) (revocation) after “regulation 56(1)(a),” insert “(ab),”.

25. In regulation 89 (persons qualified to be the owners of a small ship to be registered on Part III of the Register)—

- (a) in sub-paragraph (e), omit “and”; and
- (b) at the end of sub-paragraph (f), insert—
“; and
- (g) non-United Kingdom nationals who are settled in the United Kingdom”.

26. In regulation 90 (British connection), after “Subject to” insert “the relevant provisions of the sanctions regulations and”.

27. After regulation 92(c) (applications) insert—

- “(ca) confirmation that the ship is not a sanctioned ship;”.

28. In regulation 93(1) (details to be registered and refusal), for “On receiving” substitute “Subject to the relevant provisions of the sanctions regulations, on receiving”.

29. In regulation 101 (service of notices)—

- (a) in paragraph (1)—
(i) after “regulation 56(1)(aa),” insert “(ab),”;

- (ii) after “87(1)(b),” insert “ (ba),”;
 - (iii) before “apply”, insert “or 87K(1) ”; and
 - (iv) after “remain on the Register” insert “or should not have the certificate of permission in respect of it revoked”, and
- (b) in paragraph (2)—
- (i) after “registration”, insert “or revokes its certificate of permission”; and
 - (ii) after “closure”, insert “or revocation”.

30. In regulations 108 (duplicate certificates) and 111 (dispensing with production of certificate), after “certificate of registry”, in each place it occurs, insert “or permission”.

31. In regulation 113 (removal of marks on cessation of registration), after “or otherwise,”, insert “, or if a marks removal note has been issued in respect of the ship under regulation 87E,”.

32. After Schedule 5, insert—

“SCHEDULE 6 Regulations 7 and 87D
Approved Countries

The approved countries are—

- (a) Argentina
- (b) Aruba
- (c) Bahrain
- (d) Brazil
- (e) the Canary Islands
- (f) China
- (g) the Faroe Islands
- (h) Haiti
- (i) Israel
- (j) Japan
- (k) Liberia
- (l) Madeira
- (m) the Marshall Islands
- (n) Monaco
- (o) Panama
- (p) South Korea
- (q) Switzerland
- (r) Suriname
- (s) the United Arab Emirates, and
- (t) the United States of America.”

Amendments to the Merchant Shipping (Fees) Regulations 2018

33. In Part 8 of Schedule 1 to the Merchant Shipping (Fees) Regulations 2018(a), in the table of fees, insert the following entries after the entry labelled “3”—

(a) S.I. 2018/1104, to which there are amendments not relevant to these Regulations.

“3A	The issue of a certificate of permission	£153	£180
3B	The renewal of a certificate of permission	£72	£100
3C	The amendment of a certificate of permission to amend the names of owners of a ship—		
	(a) for the first or only such amendment	£105	£100
	(b) for the second and each subsequent amendment	£20	n/a
3D	The amendment of a certificate of permission to amend any entry other than the names of owners of a ship	£46	£100”

Signed by authority of the Secretary of State for Transport

Nusrat Ghani
Parliamentary Under Secretary of State
Department for Transport

7th March 2019

We consent to the making of these Regulations

Craig Whittaker
Paul Maynard

6th March 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the eligibility rules relating to Part I and Part III of the Register of British Ships, contained within the Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993/3138) (“the Registration Regulations”). The rules relating to Part I are amended by regulation 5, which expands eligibility to Commonwealth citizens, citizens of states listed in a further list (in a new Schedule 6 to the Registration Regulations), and non-United Kingdom citizens who are settled in the United Kingdom. The rules relating to Part III (small ships) are amended by regulation 25 which expands eligibility to non-United Kingdom citizens who are settled in the United Kingdom.

These Regulations provide for a system to suspend the registration of ships as United Kingdom ships, in a new Part 10A of the Registration Regulations. The suspension is begun by the issuance of a certificate of permission, and ends when the ship’s registration is restored, or when the entry relating to the ship is removed from the Register. These Regulations provide for the conditions for the issue, renewal, amendment, cancellation and revocation of a certificate of permission, for the

restoration of registration and for the removal of the entry from the Register in appropriate cases. Regulation 33 of these Regulations amends the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104) to provide for fees to be charged for this process.

These Regulations also make amendments to the Registration Regulations so that the Registrar can refuse to register sanctioned ships and can terminate the registration of sanctioned ships on receipt of a termination direction from the Secretary of State, in accordance with regulation 77 of the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411).

An impact assessment has not been prepared for this instrument as it has minimal impact on the private sector. No impact is expected on the public sector, charities or voluntary bodies. An Explanatory Memorandum is available alongside the instrument on the UK legislation website, www.legislation.gov.uk.

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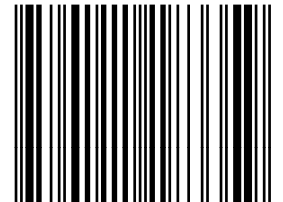
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