

Circular - Series R

Circular Series R (Regulations) supersedes previous Series F.
In the new Series R, relevant legal amendments and amendments to conventions are also published.

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The Circular should be entered into a special diagram or as appropriate in the latest editions of relevant NMA publications and kept until the next editions.

Regulation concerning amendments to Regulations of 29 December 1998 No. 1455 on marine equipment

The Norwegian Maritime Authority has laid down Regulation concerning amendments to Regulations of 29 December No. 1455 on marine equipment (Marine Equipment Regulations). These amendments enter into force on 15 September 2014.

Consultation

The Regulation was circulated for review in the period from 2 April to 20 June 2014. The Norwegian Maritime Authority (NMA) received a total of 12 consultative statements, whereof 10 did not include comments to the proposal.

The Ministry of Justice and Public Security (JPS) notes that there is probably no need for a separate provision regarding scope of application. It is the NMA's assessment that the Act of 16 February 2007 No. 9 relating to ship safety and security (Ship Safety and Security Act) applies to both Norwegian and foreign ships. The provision regarding scope of application of the proposed Regulation narrows the application to just Norwegian ships, and the scope of application is also restricted in time to the period from 1 January 1999 and onwards. The NMA has therefore laid down a provision regarding scope of application corresponding to the provision circulated for review.

JPS furthermore comments on the NMA's use of the term "mobile offshore units". JPS feels that for the sake of consistency, the wording pursuant to the Ship Safety and Security Act section 2 second paragraph (a) should be used. The term "mobile offshore unit" has on the other hand been used in several of the NMA's sets of regulations, and is established and well known in the industry. The NMA therefore chooses to lay down and continue the term "mobile offshore unit".

Based on suggestions from JPS and the Federation of Norwegian Coastal Shipping the NMA has divided section 8a (from the proposal circulated for review) into seven sections categorised by type of marine equipment, called "item group", which refers to the item groups of Appendix A to the Marine Equipment Regulations.

The Marine Equipment Regulations set forth standardisation requirements for the individual categories and types of marine equipment placed on the European market. The Regulations do not require such equipment to be installed or placed on board. As a result of the fragmentary structure of the legislation, such equipment requirements will be stipulated by other sets of regulations, such as Regulations of 1 July 2014 No. 1019 on life-saving appliances on ships, Regulations of 1 July 2014 No. 1099 on fire protection on Norwegian ships, etc. The requirements for wheelmarked equipment thus have to be seen in connection with the requirements in the individual sets of regulations which regulate whether specific types of marine equipment shall be found on board. For instance, if a passenger ship with Passenger Certificate is required to have a rescue boat installed on board, then the rescue boat shall comply with the requirements stipulated by the Marine Equipment Regulations. Still, it is set forth in section 7 of the Regulations of 1 July 2014 No. 1019 on life-saving appliances that the requirement for rescue boat applies to passenger ships (with Passenger Certificate on domestic voyages) of 24 metres in length and upwards. Based on the comments from JPS and the Federation of Norwegian Coastal Shipping, and also as a result of the fragmentary structure of the legislation, it is the NMA's assessment that the chosen structure of sections 8a to 8g gives a better overview of where (on which ships) and from when, if applicable, wheelmarked equipment is required on Norwegian ships and mobile offshore units.

Details of the proposal

The Regulation is partly laid down as a result of the general review of the NMA's rules and partly as a result of the entry into force of new regulations which affect provisions in the Marine Equipment Regulations currently in force.

The amendments are based on provisions found in

- a) new Regulations of 1 July 2014 No. 1072 on the construction of ships;
- b) new Regulations of 1 July 2014 No. 1099 on fire protection on ships;
- c) new Regulations of 5 September No. 1157 on navigation and navigational aids for ships and mobile offshore units;
- d) new Regulations of 1 July 2014 No. 1019 on life-saving appliances on ships;
- e) new Regulations of 1 July 2014 No. 955 on radiocommunication equipment for Norwegian ships and mobile offshore units.

The abovementioned regulations have SOLAS¹ provisions as a starting point. Equipment such as life-saving appliances, materials for fire protection and radiocommunication equipment etc., which is required pursuant to the regulations, shall consequently be assessed for conformity with functional and technical standards required in accordance with

In this connection it is also worth mentioning that further requirements related to approval may be laid down by other authorities².

The pan-European system for approval of equipment required pursuant to international conventions ensues from Directive 98/96/EC, which has been implemented into Norwegian legislation by the Marine Equipment Regulations. The manufacturer of equipment approved

¹ The International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974), last amended by MSC.338(91)

² See e.g. Regulations of 20 June 2000 No. 628 related to radio equipment and telecommunications terminal equipment and Regulations of 4 December 2001 No. 1450 concerning maritime electrical installations

in accordance with these Regulations may affix a particular marking – a stylized ship's wheel – as a visible confirmation that the equipment in question complies with international requirements. Such wheelmarked equipment may be freely placed on the market and installed or placed on board ships.

The Marine Equipment Regulations entered into force on 1 January 1999. At this time, the Regulations applied only to ships with international certificates. Throughout the years this has been changed, so that the approval regime required for the wheelmarking of equipment now also applies, to a relatively large extent, to ships with national certificates. This means that the main rule pursuant to current legislation is that life-saving appliances, marine-pollution prevention equipment, fire protection equipment, navigation equipment and radiocommunication equipment shall be approved in accordance with the requirements stipulated by the Marine Equipment Regulations and shall thus also be wheelmarked, when such equipment is installed or placed on board Norwegian ships.

As mentioned above, the amendments consist of seven new sections being laid down, i.e. sections 8a to 8g. The purpose of these new provisions is to clarify which categories of ships and mobile offshore units that are required to carry various types of wheelmarked marine equipment. The provision gathers information found throughout the body of legislation being administered by the NMA, but does not contain any new requirements.

If provisions regulating e.g. fishing vessels allow equipment approved in accordance with other standards than the standards required for wheelmarking, such special provisions will prevail.

Another example of special provisions which prevail, may be requirements to equipment being installed or placed on a mobile offshore unit and where such equipment has stricter requirements for approval than the requirements related to wheelmarking. See e.g. Regulations of 4 July 2007 No. 853 concerning evacuation and life-saving appliances on mobile offshore units section 2 subparagraph k (1), cf. sections 7, 8 and 9, which should be understood to mean that wheelmarked equipment is a minimum requirement, cf. section 7, and where additional requirements, when such equipment is installed or placed on a mobile offshore unit, is stipulated by sections 8 and 9 of the Regulations.

Act of 16 February 2007 No. 9 relating to ship safety and security entered into force on 1 July 2007. Regulations that entered into force prior to this date have provisions duplicating requirements stipulated by the Act. The proposed amendments therefore also aim to remove rules in the Marine Equipment Regulations that duplicate requirements otherwise stipulated by the Ship Safety and Security Act.

Comments to the individual provisions

To the legal basis of the Marine Equipment Regulations

The legal basis of the Marine Equipment Regulations originally did not include the Act relating to Recreational and Small Craft³. In connection with the entry into force of the Ship Safety and Security Act on 1 July 2007, the legal basis of 74 regulations that were laid down by the NMA was changed⁴ from the Seaworthiness Act to the Ship Safety and Security Act. At the same time, the Act relating to Recreational and Small Craft was added as legal basis.

³ Act of 26 June 1998 No. 47 relating to Recreational and Small Craft

⁴ Cf. Regulation of 29 June 2007 No. 1006

Equipment being installed or placed on board recreational craft have requirements that follow other standards than those required in connection with wheelmarking of equipment. In hindsight it is clear that it is not necessary to include the Act relating to Recreational and Small Craft in the legal basis. References to this Act have therefore been removed from the legal basis of the Marine Equipment Regulations.

The decision dated 8 January 1980 No. 1 in the current legal basis concerned delegation of the Ministry of Climate and Environment's regulatory authority in the Act of 9 June 1903 No. 7 relating to Public Control of the Seaworthiness of Ships, etc. (Seaworthiness Act) chapter 11, which was in force at that time. This Act has been repealed, cf. section 74 of the Ship Safety and Security Act. The NMA presupposes that the Formal Delegations met in accordance with the Ship Safety and Security Act sections 9 and 32 satisfy the terms of section 73 of the Ship Safety and Security Act and that the NMA therefore has sufficient and necessary authority to lay down provisions regarding requirements related to marine equipment.

As regards requirements for Notified Bodies carrying out conformity assessments pursuant to the Act of 16 June 1994 No. 20, the Formal Delegation of 10 December 1998 No. 1568 delegates sufficient authority to lay down such requirements that ensue from the Marine Equipment Regulations.

The names of the bodies⁵ that met the Formal Delegations have furthermore been specified in the legal basis.

To section 1 Scope of application

Section 1 of the Marine Equipment Regulations has been changed from a provision regarding purpose to a provision regarding scope of application which incorporates Norwegian ships and mobile offshore units into the Marine Equipment Regulations.

Section 1 of the Ship Safety and Security Act specifies the considerations that form the basis for the provisions of the Act. It is the NMA's assessment that when an enabling act has provisions regarding purpose, it is not necessary that regulations issued under such acts repeat these considerations.

It ensues from the International Convention for the Prevention of Pollution from Ships (MARPOL) Article 2 No. (4) that mobile offshore units are also covered by the term "ship". This is also provided by Regulations of 30 May 2012 No. 488 on environmental safety for ships and mobile offshore units, which implement MARPOL into Norwegian legislation. On the background of the systematics of the Ship Safety and Security Act, cf. section 2 second paragraph of the Act, it is necessary that the provision on the scope of application of the Marine Equipment Regulations also includes mobile offshore units. The term shall be understood the same way as the more detailed definition found in section 2 second paragraph (a) of the Ship Safety and Security Act.

The new provision on scope of application, together with the amendments of section 7 and new sections 8a to 8g, continues current law. The new provision on scope of application in section 1 is structured in such a way that it connects types of equipment listed in Appendix A

⁵ The King (Royal Decree), the Ministry of Trade, Industry and Fisheries and the Ministry of Climate and Environment

to the Regulations to Norwegian ships and mobile offshore units when such equipment is installed or placed on board on or after 1 January 1999. The connection takes place through the term "equipment" and the wording "installed or placed on board". The term "equipment" is defined in section 3 subparagraph b (more about this definition below).

In the provision on scope of application, other material provisions have, in line with good regulatory technique, not been included.

The provision on scope of application shall be understood on the background of section 2 of the Ship Safety and Security Act. The meaning of the term "*ship*" shall furthermore have meaning corresponding to when this term is used in the Ship Safety and Security Act. The term "*ship*" will therefore include passenger and cargo ships, barges, fishing vessels and high-speed craft.

To section 2

Section 2 has been repealed because the scope of application has been moved to section 1.

To section 3 Definitions

Section 3 first paragraph subparagraph b has been amended so that the term "*equipment*" harmonises with the wording of the scope of application. The term "*placed*" has been replaced by the wording "*installed or placed*".

Section 3 subparagraph c has been amended so that the scope of radiocommunication equipment required to be wheelmarked, is provided by the carriage requirements of new Regulations on radiocommunication for Norwegian ships and mobile offshore units and new Regulations on life-saving appliances on ships.

Subparagraph d has been repealed on the background of the new wording of section 7.

Subparagraph h has been replaced because the term "*place*" and the infinitive and present forms of this, no longer is used by itself in the Marine Equipment Regulations, but has been replaced by the wording "*install or place*" and corresponding conjugated forms as mentioned above.

Subparagraph j has been replaced because the scope of ships required to have equipment approved in accordance with the requirements of the Marine Equipment Regulations has been expanded to include ships with national certificates. More information about this development can be found in the comments to new sections 8a to 8g below. The repeal of section 3 subparagraph j does not entail any amendments to current law.

To section 4

Section 4 third paragraph has been repealed because sections 4, 19, 20, 29, 30, 37, 38, 45, 46 and 47 of the Ship Safety and Security Act contain provisions which adequately regulate the duties of the company, master and other persons working on board.

To section 6 Notified Body

Section 6 first paragraph has been amended because the competent body for designation of Notified Bodies after 1 January 2014 is the Ministry of Trade, Industry and Fisheries.

Minor editorial changes have been made in the same section second and third paragraphs.

To section 7 Requirements relating to equipment

Section 7 first paragraph has been amended so that the international instruments with requirements for functional performance and technical testing standards on which the approval of the equipment is based, is indicated positively in subparagraphs a to d. The specified date has been removed as this is provided by the proposal for new scope of application in section 1.

In the *second paragraph* some linguistic amendments have been made, which in the opinion of the NMA makes the wording clearer. The amendments do not alter current law.

The term "*place*" has been changed to "*install or place*" in section 7 third paragraph, as well as in section 10 first paragraph, section 11 first and third paragraphs, section 12 first paragraph, section 12 first paragraph subparagraph b and section 12 second paragraph.

To sections 8a to 8g

Unlike the proposed Regulations circulated for review, seven new sections from 8a to 8g have been laid down. Each section number includes a [marine] item group so that they correspond to Appendix A to the Marine Equipment Regulations.

The NMA's goal with the new sections is to indicate the ship categories required to have wheelmarked equipment, i.e. equipment in compliance with the functional requirements and technical standards stipulated by the international instrument pursuant to section 7.

The new sections have been laid down based on an analysis of current regulations on life-saving appliances, environmental safety, fire protection measures, navigational aids and navigation equipment, radiocommunication, prevention of collisions at sea and construction of ships and mobile offshore units. In addition to the 15 historical versions of the Marine Equipment Regulations, a further 22 regulations were analysed with regard to finding the ship categories required according to current law to carry wheelmarked equipment. Marine equipment included in Appendix A to the Marine Equipment Regulations and where such equipment was installed on ships with international certificates on or after 1 January 1999, should be wheelmarked. The regime for conformity assessment and requirements for wheelmarked equipment has after 1 January 1999 been expanded to also apply to ships not required to have international certificates, including fishing vessels, and to mobile offshore units. Such dates of national entry into force have been specified in sections 8a, 8d, 8g and 8f.

Current law, as provided by regulations issued under the Ship Safety and Security Act, has various ways of expressing the requirements for the approval in accordance with the Marine Equipment Regulations and the wheelmarking of equipment required to be installed or placed on board a ship. The requirement may be stipulated directly by a regulatory provision, see e.g. section 6 of the Regulations of 17 December 2004 No. 1844 on life-saving appliances on cargo ships. Another way, which is not a direct stipulation as in the abovementioned Regulations, is laid down in Regulations of 17 June 1986 No. 1296 on fire safety measures in ships to which the International Convention for the Safety of Life at Sea (SOLAS-74) does not apply, section 2 first paragraph item 22 (a). A definition provision is not a material

provision. The NMA's practice is nevertheless based on the fact that if the equipment required pursuant to the abovementioned Regulations is listed in Appendix A to the Marine Equipment Regulations, such equipment shall be wheelmarked.

When Directive 96/98/EC was implemented into Norwegian legislation on 1 January 1999, the requirement for wheelmarked equipment was limited to ships with international certificates⁶. During the 15 years that have passed since the Marine Equipment Directive was implemented into Norwegian legislation⁷, the scope of application of the Regulations implementing the Directive has been expanded to include ships not required to have international certificates⁸. A number of the regulations analysed in connection with the Regulations laid down by this circular, therefore regulate ships where the company has not requested the issue of certificates required pursuant to international conventions and instruments.

To section 8a Life-saving appliances

Section 8a has provisions related to functional and technical requirements for life-saving appliances and to the categories of ships which are required to carry wheelmarked life-saving appliances when such equipment is required pursuant to provisions laid down in regulations on life-saving appliances.

To section 8b Marine-pollution prevention equipment

Section 8b first paragraph has provisions related to functional and technical requirements for prevention of oil pollution of the environment and to the categories of ships which are required to carry wheelmarked equipment when such equipment is required pursuant to provisions laid down in regulations on environmental safety on ships and mobile offshore units.

Section 8b second paragraph has provisions related to functional and technical requirements for prevention of sewage pollution of the environment and to the categories of ships which are required to carry wheelmarked equipment when such equipment is required pursuant to provisions laid down in regulations on environmental safety on ships and mobile offshore units.

Section 8b third paragraph has provisions related to functional and technical requirements for prevention of air pollution of the environment and to the categories of ships which are required to carry wheelmarked equipment when such equipment is required pursuant to provisions laid down in regulations on environmental safety on ships and mobile offshore units.

To section 8c Fire protection equipment

Section 8c has provisions related to functional and technical requirements for fire protection equipment and to the categories of ships which are required to carry wheelmarked fire protection equipment when such equipment is required pursuant to provisions laid down in regulations on fire protection on Norwegian ships.

⁶ E.g. Safety Certificate for passenger ships engaged on foreign voyages, Safety Certificate for cargo ships of 500 gross tonnage and upwards engaged on foreign voyages, IOPP Certificate, Safety Radio Certificate, etc.

⁷ Regulations of 29 December 1998 No. 1455 on marine equipment, in force on 1 January 1999.

⁸ E.g. Safety Certificate for passenger ships engaged on domestic voyages, Safety Certificate for high-speed passenger craft, Trading Certificate (for cargo ships engaged on domestic voyages), etc.

To section 8d Navigation equipment

Section 8d has provisions related to functional and technical requirements for navigation equipment and to the categories of ships which are required to carry wheelmarked navigation equipment when such equipment is required pursuant to provisions laid down in regulations on navigation and navigational aids for ships and mobile offshore units.

To section 8e Radiocommunication equipment

Section 8e has provisions related to functional and technical requirements for radiocommunication equipment and to the categories of ships which are required to carry wheelmarked radiocommunication equipment when such equipment is required pursuant to provisions laid down in regulations on radiocommunication for ships and mobile offshore units.

To section 8f Navigation light equipment

Section 8f has provisions related to functional and technical requirements for navigation light equipment and to the categories of ships which are required to carry wheelmarked navigation light equipment when such equipment is required pursuant to provisions laid down in the Regulations for preventing collisions at sea.

To section 8g Water level detector equipment

Section 8g has provisions related to functional and technical requirements for water level detector equipment and to the categories of ships which are required to carry wheelmarked water level detector equipment when such equipment is required pursuant to provisions laid down in regulations on the construction of ships and provisions in the Regulations on additional safety measures for bulk carriers.

To section 10 Technical innovation

In section 10 first paragraph the term "*placed*" has been changed to "*installed or placed*". The term "*depart from*" has furthermore been changed to "*grant exemptions from*". "*EEA*" has additionally been changed to "*EEA countries*".

The term "*placed*" has been changed to "*installed or placed*" in section 10 second paragraph and section 11 second paragraph.

To section 14 Withdrawal of equipment from the market, etc.

Section 14 has been changed so that withdrawal of equipment also applies to mobile offshore units.

Administrative and financial implications

The amendments continue current law.

The starting point for the amendments is that the Marine Equipment Regulations shall become more readily available to the users, and that it shall become easier for the industry to locate applicable requirements. The NMA presupposes that using the amended Regulations will be time-saving for both the industry and other actors.

If companies and others have referred, in their normative documents, to an Act or Regulations regulating the same circumstances as the requirements included in the current Marine Equipment Regulations, the amendments that remove any possible duplicate requirements will contribute to simplifying the documentation and the maintenance thereof.

It is also the NMA's assessment that the removal of overlapping regulations will make the future maintenance of the legislation less resource-demanding for the authorities.

The NMA presupposes that the overall gain of suggested amendments will be larger than the associated costs related to their adoption.

Yours faithfully,

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Attachment: Regulation concerning amendments to Regulations of 29 December 1998 No. 1455 concerning marine equipment