



MERCHANT SHIPPING ACT 1985

MERCHANT SHIPPING (ISM CODE) REGULATIONS 1998

Coming into operation : 1st July 1998

In exercise of the powers conferred on the Department of Trade and Industry by sections 1 and 2 of the Merchant Shipping Act 1985¹, and of all other enabling powers, after consultation with the Secretary of State and those persons referred to in section 2(2) of the Merchant Shipping Act 1985, the following Regulations are hereby made:-

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (ISM Code) Regulations 1998 and shall come into operation on 1st July 1998.

Interpretation and revocation

2. (1) In these Regulations -

“bulk carrier” means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such ships as ore carriers and combination carriers;

“chemical tanker” means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the International Bulk Chemical Code adopted by the Maritime Safety Committee of the International Maritime Organisation by resolution MSC.4(48);

“company” means the person registered as the owner of a Manx ship in accordance with the Merchant Shipping Registration Act 1991² or any other person who has assumed the responsibility for the operation of the ship from the owner and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISM Code;

“Department” means the Department of Trade and Industry;

¹ 1985 c. 3. Functions were transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)

² 1991 c. 15

Text includes amendments made by:

SD 352/99 MS (Survey and Certification) Regulations 1999,

SD 441/00 Merchant Shipping (Harmonized Survey and Certification) Regulations 2000

SD 396/03 Merchant Shipping (Pleasure Vessel) Regulations 2003

“Document of Compliance” means the document issued to companies in conformity with paragraph 13.2 of the ISM Code;

“gas carrier” means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or any other substance listed in Chapter 19 of the International Gas Carrier Code adopted by the Maritime Safety Committee of the International Maritime Organisation by resolution MSC.5(48);

“High-speed craft” has the same meaning as in the Merchant Shipping (High-Speed Craft) Regulations 1998³;

“ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention and includes all amendments made to that Code up to and including those adopted by IMO resolution MSC.353(92) on 21 June 2013;

“Manx ship” has the same meaning as in section 1 of the Merchant Shipping Registration Act 1991 and, for the purposes of these Regulations, includes ships which are registered under Part IV of that Act;

“MSN” means a Manx Shipping Notice issued by the Department and includes any document which amends that notice;

“Mobile offshore drilling unit” means a ship capable of engaging in drilling operations for the exploration for or exploitation of resources beneath the sea-bed such as liquid or gaseous hydrocarbons, sulphur or salt;

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes a combination carrier or a chemical tanker when it is carrying a cargo or part cargo of oil in bulk;

“Passenger ship” has the same meaning as in the Merchant Shipping (Passenger Ships’ Survey) Act 1979⁴;

Definition of Pleasure Vessel as amended by SD 396/03 MS (Pleasure Vessel) Regulations 2003

“Pleasure Vessel” means any vessel which at the time it is being used:

“Pleasure Vessel” means any vessel which at the time it is being used:

(a) is wholly owned by an individual or individuals, and is used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(b) is owned by a body corporate, and is carrying only such persons as are the employees or officers of the body corporate, or their immediate family or friends; and

³ SD 260/98

⁴ 1979 c. 11

(c) is on a voyage or excursion which is one for which the owner does not receive money or money's worth for or in connection with the operation of the vessel or the carrying of any person other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion, and no other payments are made by, on behalf of, or for the benefit of users of the vessel, other than by the owner; or

(d) is owned by a body corporate but pursuant to a long term lease agreement, is used only for the sport or pleasure of the lessee, and the immediate friends or family of the lessee, if an individual, or the employees or officers and their immediate friends and family, if a corporate lessee.

Such lease agreement must specify that:

(i) the vessel may only be used for private purposes and must not be used for commercial purposes;

(ii) the vessel must not be sub-leased or chartered, and

(iii) no other payments are made by, on behalf of, or for the benefit of users of the vessel, other than by the lessee.

(e) is wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure, and at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and any charges levied in respect of that use are paid into club funds and applied for the general use of the club, and no other payments are made by, on behalf of, or for the benefit of users of the vessel, other than by the club.

“RO” means any recognised organisation specified in MSN 020 which is authorised by the Department to undertake the specified function;

“Safety Management Certificate” means the certificate issued to ships in conformity with paragraph 13.7 of the ISM Code;

(2) The Merchant Shipping (Operations Book) Regulations 1989⁵ are revoked.

Application

3. (1) These Regulations apply -

(a) to Manx ships wherever they may be, and

(b) to non-Manx ships whilst they are within the Island, regardless of the date of construction, of the following classes -

(i) passenger ships and passenger high speed craft with effect from 1st July 1998;

⁵ GC 151/89

(ii) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft of 500 gross tonnage and over with effect from 1st July 1998; and

(iii) other cargo ships and mobile offshore drilling units of 500 gross tons and over with effect from 1st July 2002.

(2) These Regulations do not apply to pleasure *vessels* or fishing vessels.

Duty to comply with safety management requirements

4 (1) A ship to which these Regulations apply, shall be operated by a company holding a Document of Compliance issued to it under regulation 5.

(2) It shall be the duty of the company to comply with the requirements of the ISM Code.

Certification for Manx Ships

5. (1) The Department *or RO* shall issue a Document of Compliance to every company which complies with the requirements of the ISM Code.

(2) A copy of the Document of Compliance shall be kept on board the ship and shall be produced by the master of the ship on request.

(3) The Department *or RO* shall issue a Safety Management Certificate to every Manx ship to which these Regulations apply. Before issuing the Safety Management Certificate, the Department *or RO* shall verify that the shipboard management system operates in accordance with the approved safety-management system.

(4) Subject to regulation 9, a Document of Compliance and a Safety Management Certificate shall be valid for a period not exceeding 5 years.

Interim Documents of Compliance and Interim Safety Management Certificates for Manx Ships

6. (1) The Department *or RO* may issue an Interim Document of Compliance where a company is newly established or where new ship types are added to an existing Document of Compliance.

(2) Subject to regulation 9, an interim Document of Compliance shall be valid for 12 months.

(3) The Department *or RO* may issue an interim Safety Management Certificate

(a) to new ships or major conversions on delivery;

(b) to ships the responsibility for the management of which has been newly undertaken by the company; or

(c) to ships accepted for first registry under the Merchant Shipping Registration Act 1991.

(4) Subject to regulation 9, an interim Safety Management Certificate shall be valid for 6 months. The Department *or, with the permission of the Department, an RO*, may extend the validity of the Certificate for a further 6 months.

Audits

7. (1) The audit for a Document of Compliance shall be carried out within 3 months before or after the anniversary date.

(2) The intermediate audit for a Safety Management Certificate shall be carried out within 6 months before or after the expiry of each period of 2.5 years commencing from the date of the initial audit.

(3) In this regulation, “anniversary date” means the day and the month of each year which will correspond to the date of expiry of the relevant Document of Compliance.

(4) *In any case where an audit is not completed within the time scale required by this regulation, the Document of Compliance and Safety Management Certificate shall cease to be valid.*

[Paragraph (5) below is inserted by SD 441/00]

- (5) (a) *Notwithstanding the maximum period of validation specified in regulation 5(4), when the renewal audit is completed within three months before the expiry date of the existing Document of Compliance and Safety Management Certificate, the new certificate shall be valid from the date of completion of the renewal audit to a date not exceeding five years from the date of expiry of the existing certificate;*
- (b) *when the renewal audit is completed more than three months before the expiry date of the existing Document of Compliance and Safety Management Certificate, the new certificate shall be valid from the date of completion of the renewal audit to a date not exceeding five years from the date of completion of the renewal audit.*

Powers of Inspection

8. (1) *The Department, an RO or any person authorised by the Department*, may inspect any company, or ship, to which these Regulations apply.

(2) In cases where -

- (a) a passenger or crew member complains, or
- (b) (i) survey or general inspection findings, or
- (ii) accidents or serious machinery failures

indicate possible deficiencies in the safety management system,

extraordinary audits of the ship or company may be conducted by the Department, *an RO or any person authorised by the Department*.

(3) A person exercising functions under this regulation shall have the powers conferred on an inspector by section 3 of the Merchant Shipping Act 1985.

Suspension or cancellation of Certificates and Documents

9. (1) The Department *or, with the permission of the Department, an RO*, may suspend or cancel a Document of Compliance or a Safety Management Certificate issued by it pursuant to these Regulations where it has reason to believe that :

- (a) the certificate or document was issued on false or erroneous information; or
- (b) since any audit required by the ISM Code the management structure of either the company or the ship has changed substantively; or
- (c) where upon audit the ship or company is found to be no longer in compliance with the ISM Code.

(2) The Department *or, with the permission of the Department, an RO*, may require that a Document of Compliance or a Safety Management Certificate issued pursuant to these Regulations which has expired or has been suspended or cancelled, be surrendered to it as directed.

Offences

10. (1) It shall be an offence for a company to fail to comply with a duty imposed on it by these Regulations.

(2) It shall be an offence for a person

- (a) intentionally to alter a Document of Compliance or a Safety Management Certificate
- (b) intentionally to make a false Document of Compliance or a Safety Management Certificate

- (c) in connection with any audit required by the ISM Code knowingly or recklessly furnish false information;
- (d) with intent to deceive, to use, lend or allow to be used by another, a Document of Compliance or a Safety Management Certificate
- (e) to fail to surrender a Document of Compliance or Safety Management Certificate required to be surrendered under regulation 9(2).

(3) Any contravention of these Regulations shall be an offence, punishable on summary conviction by a fine not exceeding £5,000, or conviction on information by custody for a term not exceeding 6 months, or a fine, or both.

(4) Where an offence under any of these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been 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, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(6) For the purposes of paragraph (4), “body corporate” includes a limited liability company constituted under the Limited Liability Companies Act 1996⁶ and, in relation to such a company, any reference to a director or other officer of a body corporate is a reference to a member and to the company’s manager and registered agent.

Defence

11. It shall be a defence for a company charged with an offence under these Regulations to prove that it took all reasonable steps to ensure that the Regulations were complied with.

Power to detain

12. In any case where a ship does not comply with the requirements of these Regulations the ship shall be liable to be detained and section 74 of the Merchant Shipping Registration Act 1991 (which relates to the detention of a ship) shall have effect in relation to the ship, subject to the modification that for the words “this Act” wherever they appear, there shall be substituted the words “the Merchant Shipping (ISM Code) Regulations 1998”.

Made 29th June, 1998

David North,

Minister for Trade and Industry

⁶ 1996 c.19

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in the Isle of Man to Chapter IX (Management for the Safe Operation of Ships) of the Safety of Life at Sea Convention 1974, as adopted by the IMO Assembly in 1993.

The Regulations apply to Manx ships wherever they are and to other ships which are in the Isle of Man which are passenger ships (including high speed passenger craft), tankers and bulk carriers with effect from 1st July 1998 and to other cargo ships (including cargo high speed craft), and MODUs of over 500 GRT from 1st July 2002. After those dates it will be an offence for companies which operate such ships not to comply with the provisions of the ISM Code. The Regulations provide for the issue of a Document of Compliance or Acceptance Document and a Safety Management Certificate by or on behalf of the Department, and for the issue of interim Documents of Compliance and Safety Management Certificates in certain cases.

There are provisions as to enforcement, offences, documents and certificates and a general defence to offences and powers of inspection and detention.

Amendments:

These regulations have been amended by:

SD 352/99 MS (Survey and Certification) Regulations 1999,

SD 441/00 Merchant Shipping (Harmonized Survey and Certification) Regulations 2000

SD 396/03 Merchant Shipping (Pleasure Vessel) Regulations 2003

SD 2017/0104 Merchant Shipping (Amendment) Regulations 2017