



## MERCHANT SHIPPING ACT 1985

### MERCHANT SHIPPING (HIGH-SPEED CRAFT) REGULATIONS 1998

*coming into operation : 4<sup>th</sup> May 1998*

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

#### **Citation and commencement**

1. These Regulations may be cited as the Merchant Shipping (High-Speed Craft) Regulations 1998 and shall come into operation on 4<sup>th</sup> May 1998.

#### **Interpretation**

2. (1) In these Regulations -

“anniversary date” in relation to a certificate means the day and month of each year which correspond to the day and month of the date of expiry of the relevant certificate;

“cargo craft” means a high-speed craft other than a passenger craft, which is capable of maintaining the main functions and safety systems of unaffected space in any one compartment on board;

“constructed” in relation to a craft means that the keel is laid or the craft is at a similar stage of construction;

“Department” means the Department of Trade and Industry <sup>(aa)</sup> ;

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(a) 1985 c.3. Functions were transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1998 (S.D. 51/97)

<sup>(aa)</sup> The functions in these Regulations have been transferred by SD155/10 to the Department of Economic Development and then to the Department for Enterprise by SD2017/0325 the Transfer of Functions (Economic Development and Education) Order 2017 with effect from 24 November 2017. Price : £1.35

“high-speed craft” means a vessel or hovercraft capable of a maximum speed in metres per second which is equal to, or exceeds:

$$3.7 \sqrt{V}^{0.1667}$$

where  $V$  = volume of displacement corresponding to the design waterline at the operational weight of the craft with no lift or propulsion machinery active;

“High-Speed Craft Code” and “Code” mean the International Code of Safety for High-speed Craft adopted by the Maritime Safety Committee of the International Maritime Organisation by resolution MSC.36(63) and includes any document which subsequently amends it;

“Manx high-speed craft” means a high-speed craft which is a Manx ship;

“Manx ship” has the meaning assigned to it by section 1 of the Merchant Shipping Registration Act 1991 <sup>(b)</sup>;

“operational speed” means 90% of the maximum speed of which the craft is capable;

“operator” means the owner, manager, demise charterer or other person other than the master having immediate control over the day to day employment and operation of the ship;

“passenger craft” means craft carrying more than 12 passengers;

“Permit to Operate” means a Permit to Operate a high-speed craft referred to in section 1.9 of Chapter 1 of the High-Speed Craft Code.

(2) In interpreting the High-Speed Craft Code -

- (a) the provisions of the Code having been made mandatory under Regulation 5, the language of the Code shall be construed accordingly;
- (b) the definitions set out in Chapter 1 Regulation 1.4 of the Code shall apply;
- (c) the footnotes to, and any interpretation of, the Code shall be construed as integral parts of the Code.

### **Amendment of Regulations**

3. The public documents specified in the Schedule are amended to the extent specified in that Schedule.

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(b) 1991 c.15

## **Application**

4. These Regulations apply to Manx ships and hovercraft which are high-speed craft and to other high-speed craft when in the territorial waters of the Island and which are:-

- (a) passenger craft which do not proceed in the course of their voyage more than 4 hours at operational speed from a place of refuge when fully laden; and
- (b) cargo craft of 500 gross tonnage and upwards which do not proceed in the course of their voyage more than 8 hours at operational speed from a place of refuge when fully laden.

## **Requirements for High-speed Craft**

5. (1) High-speed craft which are constructed on or after 1<sup>st</sup> January 1996 shall be constructed, equipped and operated in accordance with the requirements of the High-Speed Craft Code.

(2) High-speed craft which are constructed before 1<sup>st</sup> January 1996 shall comply with the requirements for High-Speed Craft Safety Certificate and a Permit to Operate, and with Chapter 18 of the Code (operational requirements) as if they were constructed on or after 1<sup>st</sup> January 1996, but in other respects such vessels shall comply with the Code as nearly as practicable.

## **Surveys and issue of certificates**

6. (1) Every Manx high-speed craft shall be subject to the following surveys:-

- (a) an initial survey before the craft is put in service, or before any certificate is issued for the first time. This survey shall only be carried out by a surveyor of the Department;
- (b) a periodical survey within 3 months before or after each anniversary date of the High-speed Craft Safety Certificate. This survey may be carried out by an organisation recognised by the Department;
- (c) a renewal survey before the issue of a second or subsequent High-speed Craft Safety Certificate. This survey shall only be carried out by a surveyor of the Department;
- (d) any additional survey that is considered necessary by the Department.

(2) Where an initial survey or a renewal survey of a Manx high-speed craft shows that the craft complies fully with the requirements of the Code, a High-speed Craft Safety Certificate shall be issued by the Department with a validity not exceeding 5 years and in accordance with the provisions of Chapter 1 section 1.8 of the Code, except in the case of a vessel constructed before 1<sup>st</sup> January 1996 in which case the certificate shall indicate the extent to which the vessel complies with the Code to the satisfaction of the Department.

(3) Where the Department is satisfied that all the requirements of Chapter 1 sections 1.2.2 to 1.2.7 of the Code are met and after consultation with the Administrations of any other country or countries to which the craft is to operate, the Department shall issue a Permit to Operate in accordance with Chapter 1 section 1.9 of the Code. A Permit to Operate shall have a validity not exceeding 5 years subject to a periodical assessment at the same time as the periodical survey for the continuation of the High-speed Craft Safety Certificate.

(4) A Permit to Operate shall include any operational conditions or restrictions required by the Administration or Administrations of any other countries to which the craft operates.

(5) A Permit to Operate shall not be required for a high-speed craft proceeding on a voyage without cargo or passengers.

(6) A High-speed Craft Certificate and a Permit to Operate may be withdrawn or amended by the Department at any time.

### **Maintenance of Conditions**

7. It shall be the duty of the Master and operator of every high-speed craft to maintain the craft and its equipment in conformity with the Code in compliance with Chapter 1 section 1.7 of the Code at all times.

### **High-speed Craft other than Manx High-speed Craft**

8. (1) Every high-speed craft operating to or from a port in the Island and which is not a Manx ship shall have a valid High-Speed Craft Certificate and a valid Permit to Operate before any service is commenced.

(2) The Permit to Operate for every such craft shall only be valid when it has been issued by the flag state of the vessel after consultation with the Department and incorporates any conditions or limitations that are required by the Department.

(3) On the first call at a port in the Island the Permit to Operate of any such craft shall be endorsed as approved by the Department.

## Offences

9. (1) If a high-speed craft to which these Regulations apply proceeds to sea on a voyage or excursion from a port in the Island with passengers or with cargo or with passengers and cargo without complying with the requirements of regulation 5, 6, 7 or 8, or without a valid High-speed Craft Safety certificate or a valid Permit to Operate applicable to the voyage or excursion contemplated, the master and operator shall each be guilty of an offence in respect of each case of non-compliance and liable on summary conviction to a fine not exceeding **£10,000<sup>(bb)</sup>** or, on conviction on information, to imprisonment for a term not exceeding two years, or a fine, or both.

(2) If a high-speed craft proceeds to sea with a greater number of passengers on board than the number specified in the Permit to Operate, the operator and master shall each be guilty of an offence and liable on summary conviction to a fine not exceeding **£10,000<sup>(bb)</sup>** or, on conviction on information, to imprisonment for a term not exceeding two years or a fine, or both.

(3) Any person who -

- (a) intentionally alters a certificate or permit referred to in these regulations;
- (b) intentionally makes a false certificate or permit referred to in these Regulations;
- (c) in connection with any survey required by these Regulations, knowingly or recklessly furnishes false information; or
- (d) with intent to deceive, uses, lends, or allows to be used by another, a certificate or permit referred to in these Regulations;

shall be guilty of an offence and shall be liable -

- (i) on summary conviction to a fine not exceeding **£10,000<sup>(bb)</sup>** or
- (ii) on conviction on information, to imprisonment for a term not exceeding 6 months, or to a fine, or to both.

(4) It shall be a defence for a person charged under this regulation to show that he took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

### *Exemptions and equivalent arrangements*

10. (1) The Department may exempt any Manx high-speed craft from any provisions of these Regulations as may be specified in the exemption on such conditions as may be specified and may alter or cancel any such exemption at any time.

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<sup>(bb)</sup> Paragraphs 9(1), 9(2) and 9(3)(d)(i) increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

(2) *If these Regulations require that —*

(a) *a particular fitting, material, appliance or apparatus, or type thereof, must be fitted or carried in a ship; or*

(b) *any particular provision must be made,*

*the Department may allow any other fitting, material, appliance or apparatus, or type thereof, to be fitted or carried or any other provision to be made in that ship.*

(3) *An equivalent arrangement may only be permitted under paragraph (2) if the Department is satisfied by trial thereof or otherwise that the fitting, material, appliance or apparatus, or type thereof, or provision is at least as effective as that required by these Regulations.*

(4) *An exemption or equivalent arrangement permitted by these Regulations is only valid if —*

(a) *it is in writing;*

(b) *it specifies the date on which it takes effect; and*

(c) *any conditions stated in it are complied with.*

#### **Power to detain**

11. In any case where a high-speed craft does not comply with the requirements of these Regulations the craft 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 high-speed craft, subject to the modification that for the words "this Act" wherever they appear, there shall be substituted the words "the Merchant Shipping (High-speed Craft) Regulations 1998" , and for the word "ship" there were substituted "high-speed craft".

Article 3

**THE SCHEDULE**

**AMENDMENT OF ENACTMENTS**

1. In Part III of Schedule 3 to the Merchant Shipping (Safety Provisions) (Application) Order 1985 <sup>(c)</sup> (modifications of the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984 <sup>(d)</sup> ) in the modifications to regulation 1, after paragraph (b) add on -

“(c) after Regulation 1(3) insert -

“(3A) These Regulations do not apply to Manx Passenger ships which are high-speed craft to which the Merchant Shipping (High-Speed Craft) Regulations 1998 apply.”.”.

2. In Part II of Schedule 5 to the Merchant Shipping (Safety Provisions) (Application) Order 1985 (modifications of the Merchant Shipping (Fire Protection) Regulations 1984 <sup>(e)</sup> after the modifications of regulation 1(2) insert-

“regulation 1(4)

After paragraph (b) insert -

“(c) high-speed craft to which the Merchant Shipping (High-Speed Craft) Regulations 1998 apply.”.”.

3. In Part II of Schedule 11 to the Merchant Shipping (Safety Provisions) (Application) Order 1985 (modifications of the Merchant Shipping (Cargo Ship Construction and Survey) Regulations 1984 as amended <sup>(f)</sup> after the modifications of regulation 1(2) insert-

“regulation 1(3)

After paragraph (b) insert -

“(c) These Regulations do not apply to cargo ships which are high-speed craft to which the Merchant Shipping (High-Speed Craft) Regulations 1998 apply.”.”.

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(c) GC 38/85

(d) SI 1980/535 (this SI is incorrect should read SI 1984/1216)

(e) SI 1984/1218

(f) SI 1984/1217

4. The Merchant Shipping (Life Saving Appliances) (Ships Built on or after 1st July 1986) Regulations 1991 <sup>(g)</sup> shall be amended by the addition of the following sub-paragraph to regulation 4(1):-

“(d) high-speed craft to which the Merchant Shipping (High-Speed Craft) Regulations 1998 apply.”.

5. In regulation 3(2) of the Merchant Shipping (Radio Installations) Regulations 1992 <sup>(h)</sup> the following sub- paragraph shall be added :-

“(f) high-speed craft to which the Merchant Shipping (High-Speed Craft) Regulations 1998 apply.”.

6. In Regulation 2(4) of the Merchant Shipping (Navigational Equipment) Regulations 1992 <sup>(i)</sup> for “and fishing vessels” substitute -

“fishing vessels and high-speed craft to which the Merchant Shipping (High-Speed Craft) Regulations 1998 apply.”.

7. The Merchant Shipping (Ro-Ro Passenger Ship Survivability) Regulations 1997 <sup>(j)</sup> shall be amended as follows -

(a) in regulation 2(1) in the definition of “First periodical survey” add on -

“or the periodical survey required by regulation 6(1)(b) of the Merchant Shipping (High-Speed Craft) Regulations 1998”;

(b) in regulation 2(1) after the definition of “first periodical survey” insert the following new definition -

““High-Speed Craft Code” means the High-Speed Craft Code adopted by the International Maritime Organisation on the 20th May 1994;”.

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(g) GC 274/91  
(h) GC 39/92  
(i) GC 369/92  
(j) SD 668/97



- (c) In regulation 6(2) (Construction), after “1984 Regulations” insert -
- “or regulation 4(1) of the Merchant Shipping (High-Speed Craft) Regulations 1998 in so far as it implements Chapter 2 Part B of the High-Speed Craft Code”.

Made 1<sup>st</sup> May, 1998

*David North,*

Minister for Trade and Industry

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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations implement Chapter X of the Safety of Life at Sea (SOLAS) Convention 1974, which was added by the Conference of Contracting Governments through the adoption of Resolution 1 on 23rd May 1994.

The Regulations require that all Manx high-speed craft (including hovercraft), and high-speed craft registered in other states which operate in Manx waters, must comply with the International Code of Safety for High-Speed Craft (the HSC Code) and have Safety Certificates and Permits to Operate issued in accordance with that Code. The Regulations allow exemptions from the detailed requirements of the Code where the Department considers them to be necessary.

#### **Amendments:**

This text is marked (*in bold italic type*) with amendments made to these Regulations by -

Merchant Shipping (Survey and Certification) Regulations 2018 (SD2018/0088)

Section 55 of the Interpretation Act 2015 which increase the fines with effect from 1 January 2018

The functions in these Regulations have been transferred by SD155/10 to the Department of Economic Development and then to the Department for Enterprise by SD2017/0325 the Transfer of Functions (Economic Development and Education) Order 2017 with effect from 24 November 2017.