



MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2018

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Statutory Document No. 2018/0312



Merchant Shipping Act 1985

MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2018

Laid before Tynwald: 11 December 2018

Coming into Operation: 1 January 2019

The Department for Enterprise, having carried out the consultation required by section 1(1) and section 2(2) of the Merchant Shipping Act 1985, makes the following Regulations under section 1 and 2 of that Act.

1 Title

These Regulations are the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2018.

2 Commencement

These Regulations come into operation on 1 January 2019.

3 Interpretation

In these Regulations —

“**Act**” means the Merchant Shipping Act 1985;

“**Department**” means the Department for Enterprise;

“**IMO**” means the International Maritime Organization;

“**inspector**” means a person appointed as an inspector under section 3 of the Act or a surveyor of an RO authorised by the Department to conduct inspections for compliance with the requirements of these Regulations;

“**Large Yacht Code**” means Part A of the Red Ensign Group Yacht Code January 2019 edition;

“**Manx vessel**” means a vessel registered in the Island under Part I or Part IV of the *Merchant Shipping Registration Act 1991*;

“**MSN**” means a Manx Shipping Notice issued by the Department and includes any document amending the same;

“**operator**” means —

- (a) the owner of the vessel; or
- (b) any other person (for example the manager or bareboat charterer of the vessel) —
 - (i) that has assumed responsibility for the operation of the vessel from the owner; and
 - (ii) that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the Large Yacht Code;

“**pleasure vessel**” has the meaning given by regulation 6 of the Merchant Shipping (Pleasure Vessel) Regulations 20031; and

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

4 Application

- (1) Subject to paragraph (2), these Regulations apply to a Manx vessel —
 - (a) of 24 metres or over in load line length;
 - (b) used for sport or pleasure; and
 - (c) which is not a pleasure vessel.
- (2) These Regulations do not apply to a vessel carrying more than 12 passengers.

5 Operator’s responsibility

- (1) The operator of a vessel must ensure that the vessel complies with the requirements of these Regulations.
- (2) Paragraph (1) applies whether or not these Regulations impose an obligation on another person.
- (3) An operator which fails to comply with paragraph (1) commits an offence and is liable —
 - (a) on conviction on information —
 - (i) in the case of a body corporate, to a fine; or
 - (ii) in the case of an individual, to a fine or custody for a term not exceeding 2 years, or both; or
 - (b) on summary conviction, to a fine not exceeding level 5 on the standard scale.

¹ SD396/03

6 Provisions relating to offences

- (1) It is a defence for a person charged with an offence under these Regulations to show that he or she took all reasonable steps to avoid the commission of the offence.
- (2) If the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person —
 - (a) commits the offence; and
 - (b) may be charged with and convicted of the offence by virtue of this regulation,
whether or not proceedings are taken against the first-mentioned person.
- (3) If a body corporate commits an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of or to have been attributable to any neglect on the part of —
 - (a) a director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person who was purporting to act in any such capacity,
he or she, as well as the body corporate, commits that offence and is liable to be proceeded against and punished accordingly.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if the member is a director of the body corporate.
- (5) For the purposes of this regulation, “**body corporate**” includes a limited liability company constituted under the *Limited Liability Companies Act 1996* 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.

7 Requirement to comply with the Large Yacht Code and MSN 054

- (1) A vessel must comply with the requirements of the Large Yacht Code and MSN 054 as apply in relation to a vessel of its description.
- (2) A reference in these Regulations to the Large Yacht Code includes a reference to the applicable common Annexes of the Large Yacht Code.
- (3) For the purposes of these Regulations, a provision of the Large Yacht Code expressed in the conditional (i.e. should) is a requirement.
- (4) The Statutory Documents listed in Schedule 1 do not apply to a vessel which has been examined, and in respect of which appropriate certificates have been issued, in accordance with Annex M of the Large Yacht Code.

8 Prohibition on proceeding on any voyage

A vessel must not proceed or attempt to proceed on any voyage unless —

- (a) the appropriate certificates listed in Annex M to the Large Yacht Code are currently in force; and
- (b) the vessel complies with the requirements of the Large Yacht Code and MSN 054.

9 Masters responsibility

If a vessel attempts to proceed on a voyage in contravention of regulation 8, the master commits an offence and is liable —

- (a) on conviction on information, to custody for a term not exceeding 2 years, a fine, or both; or
- (b) on summary conviction, to a fine not exceeding level 5 on the standard scale.

10 Detention

If a vessel is not compliant with any of the requirements of these Regulations, an inspector may detain the vessel and section 74 of the *Merchant Shipping (Registration) Act 1991* (which relates to detention of a ship) has effect, subject to the following modifications —

- (a) In sub-sections (1) and (2), after “officer of the Department,” insert **“or any inspector,”**
- (b) in sub-section (3), for “this Act” (wherever occurring) substitute **“the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2018”**; and
- (c) after sub-section (3) add —
 - “(4) In this section —**
 - “inspector”** has the meaning given by regulation 3 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2018.

11 Revocation

The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2014² are revoked.

² SD2014/0415

12 Consequential amendments

Schedule 2 (consequential amendments) has effect.

MADE 21 NOVEMBER 2018

LAURENCE SKELLY
Minister for Enterprise

SCHEDULE 1

REGULATION 7(4)

REGULATIONS DISAPPLIED

SD 2020/0552	<i>Merchant Shipping (Load Line) Regulations 2020</i>
SD2018/0088	Merchant Shipping (Survey and Certification) Regulations 2018
SD2018/0187	Merchant Shipping (SOLAS Chapter V)(Safety of Navigation) Regulations 2018
SD 2017/0185	Merchant Shipping (SOLAS Chapter III)(Life-Saving Appliances and Arrangements) Regulations 2017
SD2016/0202	Merchant Shipping (SOLAS Chapter II-1)(Ships constructed from 1 July 1986) Regulations 2016
SD2016/0086	Merchant Shipping (SOLAS Chapter II-2)(Ships constructed on or after 1 July 2002) Regulations 2016
SD2016/0085	Merchant Shipping (SOLAS II-2) (Ships constructed from 1 September 1984 to 30 June 2002) Regulations 2016
SD2014/0238	Merchant Shipping (Manning and STCW) Regulations 2014
	<i>Reference to Merchant Shipping (Load Line) Regulations 2000 omitted by Merchant Shipping (Load Line) Regulations 2020</i>
SD431/99	Merchant Shipping (Life- Saving Appliances) Regulations 1999
SD50/99	Merchant Shipping (Radio Installations) Regulations 1999
SD603/98	Merchant Shipping (Cargo Ship Construction) Regulations 1998
GC280/89	Merchant Shipping (Means of Access) Regulations 1989
SI 1985 No. 1218 ³	Merchant Shipping (Fire Protection) Ships built before 25 th May 1980) Regulations 1985
SI 1980 No.544 ⁴	Merchant Shipping (Fire Appliances) Regulations 1980

³ as applied to the Island by GC357/85

⁴ as applied to the Island by GC38/85

SI 1978 No 795 ⁵	Merchant Shipping (Crew Accommodation) Regulations 1978
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SCHEDULE 2

REGULATION 12

CONSEQUENTIAL AMENDMENTS

- (1) **The Merchant Shipping (Manning and Training) Regulations 1996 (SD723/96)**
 - (a) The Merchant Shipping (Manning and Training) Regulations 1996 are amended as follows –
 - (b) In regulation 2 (Application), for paragraph (b) substitute –
 - ☐(b) vessels manned, operated and certificated in accordance with the Large Yacht Code;☐.
 - (c) In regulation 3 (Interpretation), –
 - (i) omit the definition of “Commercial Yacht Code”; and
 - (ii) insert after the definition of Isle of Man Manager –
 - ☐“Large Yacht Code” means Part A of the Red Ensign Group Yacht Code January 2019 edition;☐.
- (2) **The Merchant Shipping (Maritime Labour Convention) Regulations 2013 (SD0234/13)**
 - (a) The Merchant Shipping (Maritime Labour Convention) Regulations 2013 are amended as follows –
 - (b) In regulation 61 (Interpretation for this Part) after the definition of “existing large commercial yacht” insert –
 - ☐“Large Yacht Code” means Part A of the Red Ensign Group Yacht Code January 2019 edition;☐.
 - (c) In regulation 62, for paragraphs 3 to 5 substitute –
 - ☐(3) For a ship which is an existing large commercial yacht, crew accommodation which is constructed and equipped in accordance with the requirements of section 21 of LY1 or LY2 as is applicable and regulation 75 (recreational facilities) and regulation 76 (open deck spaces) of these Regulations is considered as meeting the requirements of paragraph (1).
 - (4) For a ship which is a large commercial yacht constructed on or after 20 August 2013 up to and including 31 December 2018,

⁵ as applied to the Island by GC168/80

crew accommodation which is constructed and equipped in accordance with the requirements of chapter 21, chapter 21A or chapter 21B of LY3 as is applicable meets the requirements of paragraph (1).

(5) For a ship which is a large commercial yacht constructed on or after 1 January 2019, crew accommodation which is constructed and equipped in accordance with the requirements of chapter 21, chapter 21A or chapter 21B of the Large Yacht Code as is applicable meets the requirements of paragraph (1).

(6) A ship, including a ship which is a large commercial yacht, is deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction. **22**.

(3) **The Merchant Shipping (Fees) Regulations 2017 (SD2017/0070)**

(a) The Merchant Shipping (Fees) Regulations 2017 are amended as follows —

(b) In regulation 3, (Interpretation) —

(i) for the definition of “Large Commercial Yacht Code” substitute —

23 “Large Commercial Yacht Code” means Part A of the Red Ensign Group Yacht Code January 2019 edition; **24** and

(ii) in the definition of “major conversion” for “LY3” substitute —

25 “the Large Commercial Yacht Code” **26**.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require a Manx ship which is a large commercial yacht to comply with Part A of the Red Ensign Group Yacht Code and MSN 054.

Part A of the Red Ensign Group Yacht Code (“the Large Yacht Code”) replaces the existing yacht code known as LY3 with effect from 1 January 2019.

The Large Yacht Code has been notified as an equivalent arrangement to certain International Maritime Organization Convention requirements. Regulation 7(4) therefore disapplies the Statutory Documents which require compliance with those Convention requirements to a yacht which has been examined, and in respect of which appropriate certificates have been issued, in accordance with Annex M of the Large Yacht Code.

These Regulations come into operation on 1 January 2019 in line with the coming into operation date of the Large Yacht Code and revoke and replace existing legislation which requires a large commercial yacht to comply with LY3.

These Regulations are marked with amendments to Schedule 1 (*in bold italics*) by the Merchant Shipping (Load Line) Regulations 2020 (**SD2020/0552**)