



## MERCHANT SHIPPING ACT 1985

### MERCHANT SHIPPING (PROVISIONS AND WATER) REGULATIONS 1990

1. The Merchant Shipping (Provisions and Water) Regulations 1990, a copy of which is attached, were made by the *former* Department of Highways, Ports and Properties on the 12th, February, 1990 in exercise of its powers under sections 1 and 2 of the Merchant Shipping Act 1985.
2. These Regulations supersede previous Regulations applied to the Island and lay down the requirements as to provisions and water to be provided for seamen employed in ships of over 24 metres (including fishing vessels but excluding pleasure yachts).
3. The regulations differ from earlier requirements in that -
  - (i) they include only a general duty to provide adequate provisions and water instead of laying down detailed scales;
  - (ii) the substance of the Regulations applies also to non-Manx ships other than fishing vessels, when in a port in the Island.
4. The Regulations came into force on the 1st, March, 1990
5. This Text includes amendments (indicated by *bold italics*) made to the 1990 Regulations by -
  - (a) The Merchant Shipping Registration Act 1991 [c.15].
  - (b) The Criminal Justice (Penalties Etc.) Act 1993 [c. 18].
  - (c) The Merchant Shipping (Yachts in Commercial Use) Regulations 1993 (SD 248/93).
  - (d) Merchant Shipping (Pleasure Vessel) Regulations 2003 (SD396/03)
  - (e) *Merchant Shipping (Maritime Labour Convention) Regulations 2013 (SD 0234/13)*

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### MERCHANT SHIPPING (PROVISIONS AND WATER) REGULATIONS 1990

In exercise of the powers conferred on the Department of Highways, Ports and Properties <sup>(a)</sup> by sections 1 and 2 of the Merchant Shipping Act 1985 <sup>(b)</sup> and of all other powers enabling it in that behalf, 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, commencement, revocation and modification

1. (1) These Regulations may be cited as the Merchant Shipping (Provisions and Water) Regulations 1990 and shall come into operation on 1st. March, 1990.

(2) The public documents mentioned in the Schedule are revoked to the extent specified in the third column of that Schedule

(3) In the Merchant Shipping (Masters and Seamen) Act 1979 <sup>(c)</sup>:-

(a) section 16 is repealed;

(b) in section 17(1) for the words “regulations mentioned in section 16” there shall be substituted “safety regulations made under sections 1 and 2 of the Merchant Shipping Act 1985 containing requirements as to the provisions and water to be provided on ships”.

(4) In the Fines Act 1986 <sup>(d)</sup>, in Schedule 1 the entry relating to section 16(2) of the said Act of 1979 is repealed.

(5) In the Department of Highways, Ports and Properties Order 1986 <sup>(e)</sup>, in entry 33(2) of Schedule 5, the word “16”, is revoked.

#### Interpretation

2. In these Regulations -

“Department” means the *Department of Trade and Industry*;

“fishing vessel” means a vessel for the time being employed in sea fishing but does not include a vessel used otherwise than for profit;

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- (a) Functions transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997 (GC 51/97)
- (b) 1985 c. 3
- (c) 1979 c. 14
- (d) 1986 c. 1
- (e) GC 190/86

“length” in relation to a registered ship means registered length, and in relation to an unregistered ship means the length from the forepart of the stem to the aft side of the head of the stern post or, if no stern post is fitted to take the rudder, to the fore side of the rudder stock at the point where the rudder passes out of the hull;

“manager” means a ship's manager or managing owner appointed under section 59 of the Merchant Shipping Act 1894 <sup>(f)</sup> (an Act of Parliament), and resident in the Island;

“offshore installation” means any offshore installation within the meaning of section 1(4) of the Mineral Workings (Offshore Installations) (Isle of Man) Act 1974 <sup>(g)</sup>;

“owner” means the person registered as the owner of the ship and includes a disponent owner;

***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:***

***(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***

***(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.***

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(f) 1894 c.60 (now superseded by the Merchant Shipping Registration Act 1991 [c. 15])

(g) 1974 c.33

*(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.*

“submersible craft” means any description of manned mobile submersible apparatus which is designed to maintain some or all of its occupants at or near atmospheric pressure including free, self propelled, tethered, towed or bottom contact propelled apparatus and atmospheric diving suits.

## **Application**

- 3 (1) Subject to paragraph (2) and any exemption granted under paragraph (3)
- (a) these Regulations other than regulation 9 apply to sea-going Manx ships; and
  - (b) regulations 1, 2, 3, 9 and 10 apply to non-Manx sea-going ships (except fishing vessels) when in a port in the Island.
- (2) These Regulations do not apply to -
- (a) ships under 24 metres in length;
  - (b) pleasure craft;
  - (c) submersible craft;
  - (d) offshore installations whilst on or within 500 metres of their working stations; **and**
  - (e) ***ships to which the Merchant Shipping (Maritime Labour Convention) Regulations 2013 apply.***

(3) The Department may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as it may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

## **Duties of Owners, Managers and Masters**

4. It shall be the duty of the owner, manager and master of every ship to which these Regulations apply to ensure that the provisions and water provided on their ship -
- (a) are suitable in respect of quantity, nutritive value, quality and variety having regard to the size of the crew and the character and nature of the voyage;
  - (b) do not contain anything which is likely to cause sickness or injury to health or which renders any provision or water unpalatable; and
  - (c) are otherwise fit for consumption.

## **Inspections**

5 (1) It shall be the duty of the master to ensure that he, or a person authorised by him, together with a member of the crew employed in catering on the ship, inspects not less than once a week provisions and water for the purpose of checking whether the provisions and water still comply with sub-paragraphs (a) to (c) of regulation 4.

(2) The results of inspections under this Regulation shall be recorded in the Official Log Book of the ship.

## **Offences and Penalties**

6 (1) Contravention of regulation 4 by an owner or manager shall be an offence punishable on summary conviction by a fine not exceeding **£2,500**.

(2) Contravention of regulations 4 or 5 by a master shall be an offence punishable on summary conviction by a fine not exceeding **£2,500**.

(3) It shall be a defence for a person charged under these Regulations, including a person charged by virtue of regulation 7, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

7. Where an offence under any of these Regulations is committed, or would have been committed except for the operation of regulation 6(3), by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person 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.

## **Inspection and detention of a Manx ship**

8. Any person duly authorised by the Department may inspect any Manx ship and if he is satisfied that there has been a failure to comply in relation to that ship with the requirements of these Regulations he may detain the ship until the health and safety of all employees and other persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

## **Inspection detention and other measures in respect of ships registered outside the Island**

9 (1) Subject to paragraph (2), any person duly authorised by the Department may inspect any ship other than a Manx ship when the ship is in a port in the Island and if he is satisfied that the ship does not conform to the standards of health and safety required of Manx ships by these Regulations he may -

(a) send a report to the government of the country in which the ship is

registered, and a copy thereof to the Director-General of the International Labour Office; and

- (b) where conditions on board are clearly hazardous to safety or health -
  - (i) take such measures as are necessary to rectify those conditions;
  - (ii) detain the ship.

(2) The measures specified in paragraphs (1)(a) and (b) may be taken only when the ship has called at a port in the Island in the normal course of business or for operational reasons.

(3) If he takes either of the measures specified in paragraph (1)(b), the person duly authorised shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(4) The person duly authorised shall not in the exercise of his powers under this Regulation unreasonably detain or delay the ship.

### **Compensation and enforcement of detention**

10. Section 3(1) of the Merchant Shipping (Detention of Ships) Act 1979 <sup>(h)</sup> and **section 74 of the Merchant Shipping Registration Act 1991** (which relate respectively to liability for costs and compensation for detention of a ship and enforcing the detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the following modifications -

- (a) in the said section 3(1) the following words shall be omitted -
  - “by reason of the condition of the ship or the act or default of the owner”
  - “provisional”
  - “as an unsafe ship”
  - “and survey”
  - “or survey”; and
- (b) for the words “this Act” wherever appearing in the said section 3(1) and in the said **section 74**, there shall be substituted “the Merchant Shipping (Provisions and Water) Regulations 1990”.

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(h) 1979 c. 13

**SCHEDULE**  
**REVOCATION**

<i>G.C. no</i>	<i>Title</i>	<i>Extent of Revocation</i>
168/80	Merchant Shipping (Masters and Seamen) (Application) Order 1980	In Schedule 1, entries 11, 12, and 13  Schedule 8
163/81	Merchant Shipping (Masters and Seamen) (Fishing Vessels) (Application) Order 1981	In Schedule 1 entry 4.  Schedule 6.

Dated this 12th. day of February, 1990.

*A. Arnold Callin,*

Minister for Highways, Ports and Properties

## EXPLANATORY NOTE

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

These Regulations supersede previous Regulations applied to the Island laying down the requirements as to provisions and water to be provided for seamen employed in ships of over 24 metres (including fishing vessels but excluding pleasure yachts).

These Regulations have been subsequently amended with the effect that they do not apply to a ship to which the Merchant Shipping (Maritime Labour Convention) Regulations 2013 (SD0234/13) apply.

The Regulations differ from earlier requirements in that -

- (i) they include only a general duty to provide adequate provisions and water instead of laying down detailed scales;
- (ii) the substance of the Regulations applies also to non-Manx ships other than fishing vessels, when in a port in the Island.

The command papers containing I.L.O. Conventions 147 and 68, Cmnd 7163 and Cmnd 7273 are no longer in print, but photocopies of them may be obtained through Her Majesty's Stationery Office. Copies of I.L.O. Conventions may also be obtained from the United Kingdom Office of the I.L.O., ***Milton Towers, 21-24 Millbank, LONDON SW1P 4QP.***

Amendment:

This Text includes amendments (indicated by ***bold italics***) made to the 1990 Regulations by

- (a) The Merchant Shipping Registration Act 1991 [c.15].
- (b) The Criminal Justice (Penalties Etc.) Act 1993 [c. 18].
- (c) The Merchant Shipping (Yachts in Commercial Use) Regulations 1993 (SD 248/93).
- (d) Merchant Shipping (Pleasure Vessel) Regulations 2003 (SD396/03)
- (e) Merchant Shipping (Maritime Labour Convention) Regulations 2013 (SD0234/13)