



MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2014

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Statutory Document No. 2014/0415



Merchant Shipping Act 1985

MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2014

<i>Laid before Tynwald:</i>	<i>20 January 2015</i>
<i>Coming into Operation:</i>	<i>23 January 2015</i>

The Department of Economic Development makes the following Regulations under sections 1 and 2 of the Merchant Shipping Act 1985.

1 Title

These Regulations are the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2014.

2 Commencement

These Regulations come into operation on 23 January 2015.

3 Application

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

4 Interpretation

In these Regulations –

“**Department**” means the Department of Economic Development¹;

“**existing vessel**” means a vessel the keel of which was laid or was at a similar stage of construction before 20 August 2013 and which has been or is currently under survey to LY1 or LY2;

¹ Functions transferred from the Department of Economic Development to the Department for Enterprise by the Transfer of Functions (Economic Development and Education) Order 2017 (SD2017/0325)) with effect from 24 November 2017

- “inspector”** means a person appointed as an inspector under section 3 of the Merchant Shipping Act 1985 or a surveyor of an RO authorised by the Department to conduct inspections for compliance with the requirements of these Regulations;
- “Isle of Man’s National Annex to LY3”** means the National Annex to LY3 in MSN 054;
- “LY1”** means the Code of Practice for the Safety of Large Commercial Sailing and Motor Vessels published by the UK’s Maritime and Coastguard Agency in 1997;
- “LY2”** means the Large Commercial Yacht Code published by the UK’s Maritime and Coastguard Agency in 2005;
- “LY3”** means the Large Commercial Yacht Code published by the UK’s Maritime and Coastguard Agency in August 2012 and includes the Isle of Man’s National Annex to LY3;
- “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 of Economic Development and includes any document amending the same;
- “operator”** means the person registered as the owner of a Manx ship in accordance with the Merchant Shipping Registration Act 1991, or any other person who has assumed responsibility for the operation of the ship from the owner;
- “pleasure vessel”** has the meaning given by regulation 6 of the Merchant Shipping (Pleasure Vessel) Regulations 2003²; and
- “RO”** means any recognised organisation specified in MSN 020 which is authorised by the Department to undertake the specified function.

5 Operator’s responsibility

- (1) An operator must ensure a 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 who fails to comply with paragraph (1) commits an offence and is liable –
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding **£10,000**³.

² SD396/03

³ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

6 Provisions relating to offences

- (1) It is a defence for a person charged 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 is 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.
- (3) If a body corporate is guilty of 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 director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she, as well as the body corporate, is guilty of 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 LY3

- (1) A vessel must comply with the provisions of LY3.
- (2) To avoid doubt –
 - (a) a reference in these Regulations to LY3 includes a reference to the Isle of Man’s National Annex to LY3;
 - (b) an existing vessel must comply with the requirements of the Isle of Man’s National Annex to LY3; and
 - (c) the Isle of Man’s National Annex to LY3 replaces the Isle of Man’s National Annex to LY1 and LY2.
- (3) For the purposes of these Regulations, a provision of LY3 expressed in the conditional (i.e. should) is a requirement.
- (4) The Regulations listed in Schedule 1 to these Regulations do not apply to a vessel which has been examined and certificates have been issued in accordance with LY3 section 28.

8 Equivalent provisions

If LY3 requires a particular piece of equipment or machinery to be provided or carried in a vessel, or for any particular provision to be made, the Department may permit any other piece of equipment or machinery to be provided or carried or any other provision to be made if it is satisfied that the other equipment or machinery or provision is at least as effective as that required by LY3.

9 Prohibition on proceeding to sea

- (1) If a vessel has been examined and certificates have been issued in accordance with LY3 section 28, the vessel must not proceed or attempt to proceed to sea unless –
 - (a) the certificates are currently in force; and
 - (b) the vessel complies with the requirements of LY3.
- (2) If a vessel attempts to engage on a voyage in contravention of paragraph (1), the master commits an offence and is liable –
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding **£10,000**⁴.

10 Detention

If a vessel fails to comply 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 LY3 Regulations”; and
- (c) after sub-section (3) add –

“(4) In this section –

“**inspector**” has the meaning given by regulation 4 of the LY3 Regulations”; and

“**LY3 Regulations**” means the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2014.

⁴ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

11 Consequential amendments

Schedule 2 (consequential amendments) has effect.

12 Revocations

The following are revoked –

- (a) the Merchant Shipping (Safety Provisions) (Application) Order 2002 (SD865/02) which applies the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 (SI 1998 No. 2771); and
- (b) the Merchant Shipping (Safety Provisions) (Application) (Amendment) Order 2006 (SD847/06).

MADE 19 DECEMBER 2014

LAURENCE SKELLY

Minister for Economic Development

SCHEDULE 1

Regulation 7(4)

REGULATIONS DISAPPLIED

Regulations	Regulation Number	Amended By
Merchant Shipping (Crew Accommodation) Regulations 1978	SI 1978 No. 795 ⁵	SI 1979 No.491 ⁶ SI 1984 No.41 ⁷ SI 1989 No.184 ⁸ SI 1991 No.1366 ⁹ SD299/99 SD0234/13
<i>Reference to SI 1984 No 1218 omitted by SD 2016/0086</i>		
Merchant Shipping (Means of Access) Regulations 1989	GC280/89	c.15 1991 GC 392/92 SD 248/93 c.18 1993 SD 51/97 SD 396/03
<i>Reference to GC273/91 omitted by SD 2017/0185</i>		
Merchant Shipping (Cargo Ship Construction) Regulations 1998	SD603/98	SD 396/03 SD 502/07
Merchant Shipping (Radio Installations) Regulations 1999	SD50/99	SD 396/03 SD 269/04 SD 2014/0238
<i>Reference to SD352/99 omitted by SD2018/0088</i>		
<i>Reference to SD431/99 omitted by SD 2017/0185</i>		
Merchant Shipping (Load Line) Regulations 2000	SD492/00	SD736/01 SD396/03

⁵ as applied to the Island by GC168/80

⁶ as applied to the Island by GC168/80

⁷ as applied to the Island by GC152/84

⁸ as applied to the Island by GC38/90

⁹ as applied to the Island by GC388/91

<i>Reference to SD269/04 omitted by SD2018/0187</i>		
Merchant Shipping (SOLAS Chapter II-1 Construction) Regulations 2007	SD502/07	
Merchant Shipping (Manning and STCW) Regulations 2014	SD2014/0238	
<i>Merchant Shipping (SOLAS II-1) (Ships constructed on or after 1 January 2009) Regulations 2016</i>	<i>SD2016/0084</i>	
<i>Merchant Shipping (SOLAS Chapter II-2)(Ships constructed on or after 1 July 2002) Regulations 2016</i>	<i>SD2016/0086</i>	
<i>Merchant Shipping (SOLAS II-2) (Ships constructed from 1 September 1984 to 30 June 2002) Regulations 2016</i>	<i>SD2016/0085</i>	
<i>Merchant Shipping (SOLAS Chapter III)(Life-Saving Appliances and Arrangements) Regulations 2017</i>	<i>SD 2017/0185</i>	
<i>Merchant Shipping (Survey and Certification) Regulations 2018</i>	<i>SD 2018/0088</i>	
<i>Merchant Shipping (SOLAS Chapter V)(Safety of Navigation) Regulations 2018</i>	<i>SD2018/0187</i>	

SCHEDULE 2

Regulation 11

CONSEQUENTIAL AMENDMENTS

- (1) The Merchant Shipping (Manning and Training) Regulations 1996¹⁰ are amended as follows.

In regulation 3 for the definition of “Commercial Yacht Code” substitute **“Commercial Yacht Code”** means any of the Codes of Practice for large commercial yachts published by the UK’s Maritime and Coastguard Agency which are applied to the Island by statutory provision and includes any Isle of Man National Annexes; **”**.

- (2) The Merchant Shipping (Pleasure Vessel) Regulations 2003¹¹ are amended as follows.

In Schedule 1 (from the table entitled “Regulations made under sections 1, 2 and 5 of the Merchant Shipping Act 1985 in which the definition of “pleasure vessel” is amended”) omit -

Merchant Shipping (Safety Provisions) (Application) Order 2002	865/02	Schedule 2
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- (3) The Merchant Shipping (Safety of Navigation – SOLAS Chapter V) Regulations 2004¹² are amended as follows.

In Schedule 2, omit entry 2.

- (4) The Merchant Shipping (SOLAS Chapter II-1 – Construction) Regulations 2007¹³ are amended as follows.

In Schedule 1, omit entry 1.

- (5) The Merchant Shipping (Maritime Labour Convention) Regulations 2013¹⁴ are amended as follows.

In Part 11 -

- (a) in regulation 61 after the definition of **“date the Maritime Labour Convention comes into force for the Island”** insert –

“existing large commercial yacht” means a large commercial yacht constructed before 20 August 2013 which has been or is currently under survey to LY1 or LY2;

¹⁰ SD723/96

¹¹ SD396/03

¹² SD269/04

¹³ SD502/07

¹⁴ SD0234/13

“LY1” means the Code of Practice for the Safety of Large Commercial Sailing and Motor Vessels published by the UK’s Maritime and Coastguard Agency in 1997;

“LY2” means the Large Commercial Yacht Code published by the UK’s Maritime and Coastguard Agency in 2005;¹⁵ and

(b) in regulation 62 for paragraphs (2) to (5) substitute –

¹⁵(2) For a ship constructed before the date the Maritime Labour Convention comes into force for the Island, crew accommodation which is constructed and equipped in accordance with the requirements of the Merchant Shipping (crew accommodation) Regulations 1978 as applied to the Island and regulation 75 (recreational facilities) is considered as meeting the requirements of paragraph (1).

This paragraph does not apply to a ship which is a large commercial yacht.

(3) For a ship which is an existing large commercial yacht, 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) 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, crew accommodation which is constructed and equipped in accordance with the requirements of section 21 of LY3 and regulation 75 (recreational facilities) is considered as meeting the requirements of paragraph (1).

(5) 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.¹⁶

(6) The Merchant Shipping (Manning and STCW) Regulations 2014¹⁵ are amended as follows.

In Schedule 2, omit entry 8.

¹⁵ SD2014/0238

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require a Manx large commercial yacht to comply with the latest version of the large commercial yacht code (known as LY3) and to comply with the Isle of Man's National Annex to LY3 published in MSN 54.

LY3 was published by the UK's Maritime and Coastguard Agency in August 2012 and has been notified as an equivalent arrangement to certain International Maritime Organization Convention requirements. Regulation 7(4) of and Schedule 1 to these Regulations therefore disapply legislation which requires a large commercial yacht to comply with those Convention requirements if the vessel has been examined and issued with the certificates required by section 28 of LY3.

These Regulations revoke and replace existing legislation which requires a large commercial yacht to comply with LY2.

Amendments:

This document is marked with amendments made to these Regulations by –

SD2015/0230 Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods)
Regulations 2015

SD2016/0084 Merchant Shipping (SOLAS II-1) (Ships constructed on or after 1 January
2009) 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

SD2017/0185 Merchant Shipping (SOLAS Chapter III) (Life-Saving Appliances and
Arrangements) Regulations 2017

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

SD2018/0187 Merchant Shipping (SOLAS Chapter V)(Safety of Navigation) Regulations
2018

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 from the Department of
Economic Development to the Department for Enterprise by the Transfer of Functions
(Economic Development and Education) Order 2017 (SD2017/0325) with effect from 24
November 2017.