
STATUTORY INSTRUMENTS

2002 No. 2201

**MERCHANT SHIPPING
SAFETY**

The Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002

Text of the Regulations as they have effect in the Isle of Man. Amendments are indicated by *bold italics*

MANX EXTENDING/AMENDING INSTRUMENT	UK S.I.s APPLIED
1. SD73/06 Fishing Vessels (Safety Legislation) (Application) Order 2006	SI 2002 No. 2201

S.I. 2002 No. 2201 Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2002 applied by SD73/06 Fishing Vessels (Safety Legislation) (Application) Order 2006 with such exceptions, adaptations and modifications made where necessary.

Amendments:

These Regulations are marked with amendments (*in bold italic*) made to these Regulations by 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.

SD2019/0120 European Union and Trade Act 2019 (Deficiencies)(Enterprise) Regulations 2019 which makes amendments to legislation for which the Department for Enterprise is responsible in order to correct deficiencies resulting from the UK's withdrawal from the EU. The amendments are to regulation 2 (interpretation) and regulation 5 (equivalent provisions).

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2002 No. 2201

**MERCHANT SHIPPING
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The Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002

Citation and Commencement

1. These Regulations may be cited as the Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002 and shall come into force on *1 April 2006*.

Interpretation

2. (1) In these Regulations –

“the Act” means the Merchant Shipping Act 1995¹;

“categorised waters” *definition omitted*;

“Certifying Authority” *means the Department or any other organisation or persons authorised by the Department*;

“Code of Practice” means the *“Isle of Man Code of Safe Working Practice for the Construction and Use of 15 metre (LOA) to less than 24 metre (L) Fishing Vessels” which is the “Code of Practice for the Safe Working Practice for the Construction and Use of 15 metre (LOA) to less than 24 metre (L) Fishing Vessels” published by the MCA in Merchant Shipping Notice 1770, modified to take account of local circumstances and any references to the Code of Practice in these Regulations are references to the Isle of Man Code*;

“Department” *means the Department of Trade and Industry*²;

“EEA Agreement” *definition omitted by SD2019/0120*;

“EEA State” *has the meaning given by paragraph 1A of the Schedule to the Interpretation Act 2015*;

“Isle of Man fishing vessel” *means a fishing vessel which is registered in the Isle of Man under Part III of the Merchant Shipping Registration Act 1991*³;

¹ c.21

² 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.

³ c.15

“length overall” means the distance between the foreside of the foremost fixed permanent structure and the afterside of the aftermost fixed permanent structure; and “fixed permanent structure” –

- (a) includes any portion of the hull which is capable of being detached, but which is fixed in place during the normal operation of the vessel,
- (b) does not include functional arrangements such as safety rails, bowsprits, pulpits, stemhead fittings, rudders, steering gear, outdrives, outboard motors, propulsion machinery, diving platforms, rubbing strips and fenders, other than where such functional arrangements are designed to replace any part of the hull that has been removed;

“MCA” means the Maritime and Coastguard agency an executive agency of the *United Kingdom* Department for Transport;

“Merchant Shipping Notice” means a notice described as such and issued by the MCA;

“owner” means the registered owner of the vessel, unless that vessel has been chartered by demise or is managed, either wholly or in part, by a *natural or legal* person other than the registered owner under the terms of a management agreement; in that case, the owner shall be construed as the demise charterer or *natural or legal* person managing the vessel as appropriate;

“registered length” means the measurement which-

- (a) is recorded as the registered length in the vessel’s certificate of registry issued under the *Merchant Shipping (Registration of Fishing Vessels) Regulations 1991*⁴, *in the case of a Isle of Man fishing vessel*,
- (b) is recorded as the registered length in any equivalent certificate issued in the case of a vessel registered outside the *Isle of Man*, or
- (c) would be the registered length if the vessel were a *Isle of Man* fishing vessel, in the case of an unregistered vessel;

“relevant inspector” *definition omitted*;

“Surveyor” *means a surveyor appointed by the Department*;

“territorial waters” *means:*

- (a) *the territorial sea adjacent to the Island, and*
- (b) *any waters within the area which extends landward from the baselines from which the breadth of the territorial sea is measured as far as the mean high water mark of ordinary spring tides;*

“United Kingdom fishing vessel” *definition omitted*; and

⁴ GC392/91

“voyage” includes an excursion, and shall be taken to commence when a vessel leaves its berth or anchorage at a port.

(2) Subject to paragraph (3), where a provision in the Code of Practice refers to “should”, that word shall be construed as “shall” for the purposes of these Regulations.

(3) Where the Code of Practice contains reference to -

(a) a specified Merchant Shipping or fishing vessel statutory document other than the Fishing Vessels (Safety Provisions) Rules 1975⁵;

(b) guidance or recommendation; or

(c) *omitted*

that reference shall not be construed for the purposes of these Regulations as imposing a requirement to comply with such statutory *document*, guidance, *or recommendation*.

Application

3. (1) These Regulations (except regulation 10) apply to *Isle of Man* fishing vessels of at least 15 metres length overall but less than 24 metres registered length.

(2) Regulations 10 to 12 apply to any fishing vessel, other than a *Isle of Man* fishing vessel, of at least 15 metres length overall but less than 24 metres registered length while it is within *Isle of Man territorial waters*.

Prohibition on proceeding on any voyage unless Code of Practice complied with

4. (1) Subject to the following paragraphs and to regulation 5, a vessel shall not proceed on any voyage unless the vessel complies with the requirements of the Code of Practice.

(2) *omitted*;

(3) Where, in relation to any particular matter, the Code of Practice provides that an existing vessel may or should continue to comply with requirements in the Fishing Vessels (Safety Provisions) Rules 1975⁶, such a vessel shall be treated as complying with the requirements of the Code of Practice provided that it complies with the requirements in those Rules.

(4) Paragraph (1) does not apply in relation to the requirements referred to in Chapter 11 of the Code of Practice (Clean Seas).

Equivalent provisions

5. (1) Where the Code of Practice requires that a particular fitting, material, appliance or apparatus or type thereof shall be fitted or carried in a vessel, or that any particular provision shall be made, the *Department* shall permit any other fitting, material, appliance or apparatus or type thereof to

⁵ S.I. 1975 No. 330 as applied to the *Isle of Man* by G.C. 75/77

⁶ S.I. 1975 No. 330 as applied to the *Isle of Man* by G.C. 75/77

be fitted or carried or any other provision to be made in that vessel, if *it* is satisfied by trial or otherwise that such fitting, material, appliance or apparatus or type thereof or provision is at least as effective for the purpose for which the requirement in the Code of Practice is set.

(2) For the purposes of the Code of Practice, the results of verification or test shall be accepted if the verification or test is carried out –

(a) in accordance with the Code of Practice or with a Code of Practice, specification or technical description of *the United Kingdom or an EEA State* offering equivalent levels of safety, suitability and fitness for the purpose; and

(b) by a body or laboratory of *the United Kingdom or an EEA State* offering suitable and satisfactory guarantees of technical and professional competence and independence.

Approvals

6. (1) Where the Code of Practice requires an approval to be obtained, the *Department* may give that approval.

(2) The *Department* may, on giving reasonable notice, cancel or alter the terms of such an approval.

(3) An approval given under paragraph (1), and an alteration or cancellation under paragraph (2), shall –

(a) be given in writing;

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

(c) in the case of the giving of an approval, specify the conditions (if any) on which it is given.

Exemptions

7. (1) The *Department* may grant exemptions from regulation 4(1) so far as it relates to all or any of the requirements of the Code of Practice (as may be specified in the exemption) for individual cases or classes of cases on such terms (if any) as it may specify, if it is satisfied that –

(a) compliance with such requirement or requirements is either impracticable or unreasonable in that case or class of case, and

(b) the exemption is subject to such conditions and limitations as will provide a level of safety which is at least equivalent to that provided by the requirement or requirements from which exemption is being granted.

(2) The *Department* may, on giving reasonable notice, alter or cancel any exemption granted under paragraph (1).

(3) An exemption granted under paragraph (1), and an alteration or cancellation under paragraph (2) shall –

- (a) be given in writing,
- (b) specify the date on which it takes effect, and
- (c) in the case of the grant of an exemption, specify the terms (if any) on which it is granted.

Penalties

8. (1) Subject to paragraph (2), if a vessel proceeds or attempts to proceed on any voyage in contravention of regulation 4(1), then the owner shall be guilty of an offence, punishable only on summary conviction by a maximum fine not exceeding **£500**⁷.

(2) If a vessel proceeds or attempts to proceed on any voyage in contravention of a provision of the Code of Practice which imposes a requirement on the skipper, the skipper (instead of the owner) shall be guilty of an offence, punishable only on summary conviction by a maximum fine not exceeding **£500**⁸.

(3) In relation to a requirement of the Code of Practice, if the owner of a vessel makes a declaration which he knows to be false in a material particular or which is false in a material particular and which he does not believe to be true, he shall be guilty of an offence, punishable only on summary conviction by a maximum fine not exceeding **£500**⁹.

(4) It shall be a defence for a person charged under paragraph (1) or (2) to show that he took all reasonable precautions to avoid the commission of the offence.

Inspection and detention of an *Isle of Man* fishing vessel

9. (1) A *surveyor* may inspect any *Isle of Man* fishing vessel referred to in regulation 3 (1), and if he is satisfied that there has been a failure to comply in relation to that vessel with the requirements of regulation 4 of these Regulations, he may detain the vessel ***and the vessel shall be deemed to be unsafe for the purposes of section 1 of the Merchant Shipping (Detention of Ships) Act 1979***¹⁰.

(2) The Department shall not in exercise of powers under this regulation detain or delay the vessel unreasonably.

Inspection and detention and other measures in respect of non *Isle of Man* fishing vessels

10. (1) A *surveyor* may inspect any fishing vessel referred to in regulation 3(2) when the vessel is in ***Isle of Man territorial waters***, and if satisfied that the vessel does not conform to the standards required of an ***Isle of Man*** fishing vessels by these Regulations, and that the conditions on board are clearly hazardous to health and safety, he may –

- (a) take such measures as are necessary to rectify those conditions, or

⁷ Increased to a fine not exceeding £500 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

⁸ Increased to a fine not exceeding £500 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

⁹ Increased to a fine not exceeding £500 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

¹⁰ c.13

(b) *if he considers the vessel to be an unsafe ship*, detain the vessel, when the vessel has called *in Isle of Man territorial waters* in the normal course of business.

(2) If either of the measures specified in paragraph (1)(a) or (b) is taken, the *surveyor* shall forthwith notify the nearest maritime, consular or diplomatic representative of the state whose flag the vessel is entitled to fly.

(3) The *surveyor* shall not in the exercise of his powers under this regulation detain or delay the vessel unreasonably.

Detention

11. Where a fishing vessel is liable to be detained under these Regulations, *section 74 of the Merchant Shipping Registration Act 1991¹¹* (which relates to detention of a ship) shall have effect in relation to the vessel, subject to the modification that for the words “this Act” wherever they appear, there shall be substituted “the Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002 *as applied to the Isle of Man by SD73/06*”.

Compensation

12. Where a fishing vessel is detained under these Regulations, *section 3 (2) of the Merchant Shipping (Detention of Ships) Act 1979¹²* (which relates to the costs of detention) shall apply as if the vessel had been finally detained under that Act.

Amendment of other legislation

13. The amendments set out in the Schedule shall have effect.

Transitional Provision

14. omitted.

¹¹ c.15

¹² c.13

AMENDMENT OF OTHER LEGISLATION

Amendment of the Fishing Vessels (Safety Provisions) Rules 1975

1– 36 omitted.

Amendment of the Merchant Shipping (Crew Accommodation) (Fishing Vessels) Regulations 1975¹³

37. The Merchant Shipping (Crew Accommodation) (Fishing Vessels) Regulations 1975 shall be amended as follows.
38. In regulation 1 (2), after the definition of the “Register” there shall be inserted -
 “registered length” means the measurement which –
- (a) is recorded as the registered length in the vessel’s certificate of registry issued under the *Merchant Shipping Registration of Fishing Vessels Regulations 1991¹⁴*, in the case of a registered fishing vessel, or
- (b) would be the registered length if the vessel were registered under *Part III* of the Register, in the case of an unregistered vessel”.
39. In regulation 2(1), for “24.4 metre or more in length” there shall be substituted “24 metres or more registered length”.
40. In regulation 2 (2) –
- (a) in sub-paragraph (a), the words “of 15 metres in length or more” shall be omitted,
- (b) in sub-paragraph (b), the words “of 18 metres in length or over” shall be omitted, and
- (c) sub-paragraph (c) shall be omitted.
41. In regulations 3(1), for “24.4 metres or over in length” there shall be substituted “ 24 metres or more registered length”.
42. In the sub-heading to regulation 6(7), and in the heading to regulations 16A, 25A and 27A, the words “of 15 metres or more in length” shall be omitted.
43. In the sub-heading to regulation 6(8) and in the heading to regulation 14A, the words “of 18 metres in length or more” shall be omitted.
44. In the headings to regulations 10A, 15A ad 29A, and in the sub-heading to regulations 7(9) and 11(4), the words “of 18 metres in length or more” and “of 15 metres or more in length” shall be omitted.

¹³ S.I. 1975 No .2220 as applied to the Isle of Man by G.C. 163/81

¹⁴ GC392/91

45. In the heading to regulation 25B, the words “of 18 metres in length and over” and “of 15 metres or more in length” shall be omitted.
46. In regulation 36 -
 - (a) in the heading the words “ of 15 metres or more in length” shall be omitted, and
 - (b) for “at work in places” there shall be substituted “at workplaces”.

Amendment of the Fishing Vessels (Life-Saving Appliances) Regulations 1988

47-52 omitted

Amendment of the Merchant Shipping (Radio) (Fishing Vessels) Regulations 1999

53-55 omitted

Amendment of the Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001

56-59 omitted

EXPLANATORY NOTE

(This note is not part of the Regulations)

S.I. 2002 No. 2201 Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2002 is applied by SD73/06 Fishing Vessels (Safety Legislation) (Application) Order 2006 with such exceptions, adaptations and modifications made where necessary.

The effect of the application of UK S.I. 2002 No. 2201 is to require commercial fishing vessels of 15 metres length overall to less than 24 metres registered length to comply with the provisions of the UK Code of Safe Working Practice for the Construction and Use of 15 metre length overall to less than 24 metre length fishing vessels (as modified to take account of local circumstances).

The Code of Practice sets out requirements for the equipment and operation of fishing vessels of this size and includes minimum standards of construction. The Code requires vessels to be surveyed and certificated against the requirements of the Code on a 5 yearly basis with an interim inspection to be held in between 27 and 33 months. The Code replaces the existing regulatory requirements on safety, life saving appliances and crew accommodation as they applied to vessels of this size.

Amendments:

These Regulations are marked with amendments (in *bold italic*) made to these Regulations by –

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.

SD2019/0120 European Union and Trade Act 2019 (Deficiencies)(Enterprise) Regulations 2019 which makes amendments to legislation for which the Department for Enterprise is responsible in order to correct deficiencies resulting from the UK's withdrawal from the EU. The amendments are to regulation 2 (interpretation) and regulation 5 (equivalent provisions).