



MERCHANT SHIPPING ACT 1985

THE MERCHANT SHIPPING (SAFETY PROVISIONS) APPLICATION ORDER 2002

Approved by Tynwald: 22 January 2003

Coming into operation: 31 January 2003

In exercise of the powers conferred on the Department of Trade and Industry by section 5 (1) of the Merchant Shipping Act 1985^(a) and of all other enabling powers, after consultation with the Secretary of State, the following regulations are hereby made:-

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Safety Provisions) (Application) Order 2002 and subject to section 5(4) of the Merchant Shipping Act 1985 shall come into operation on 31 January 2003.

Revocation

2. Part III of the Merchant Shipping (Yachts in Commercial Use) Regulations 1993 (SD 248/93) is hereby revoked.

^(a) 1985 c.3 Functions transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997 (S.D 51/97)

Interpretation

3. In these regulations:

“applied legislation” means the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998^(b), a Statutory Instrument of Parliament.

“Code of Practice” means the “*Code of Practice for Safety of Large Commercial Sailing and Motor Vessels*”, made by the United Kingdom Marine Safety Agency and published in 1997.

“Department” means the Isle of Man Department of Trade and Industry.

Application to the Island of the provisions of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998

4. Subject to the exceptions, adaptations and modifications specified in Schedules 1 and 2, the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998^(b), a Statutory Instrument of Parliament, shall apply to the Island as part of the law of the Island.

Made: 18 December 2002

Alex F. Downie
Minister for Trade and Industry.

(b) Statutory Instrument 1998 No.2771

SCHEDULE 1

GENERAL ADAPTATIONS APPLICABLE TO LEGISLATION APPLIED BY THIS ORDER

1. References in the applied legislation to :
 - (a) the commencement date shall be construed as references to the date of commencement of this Order;
 - (b) any statutory provision shall be construed as references to that provision as amended or replaced by any other provision;
 - (c) any provision of any such legislation, or of any other legislation applied to the Island by an order made under section 5 of the Merchant Shipping Act 1985, shall be construed as references to that legislation as it has effect in the Island.
2. (1) Any references in the applied legislation to any provision in any enactment which is not applied to the Island by this Order shall be construed as references to that provision as it has effect in England and Wales.
 - (2) In paragraph (1) “enactment” means a provision of an instrument of a legislative character made under any Act of Parliament.
3. References to the Secretary of State shall be read as references to the Department, any pronoun referring to the Secretary of State shall be modified accordingly.
4. In the applied legislation, expressions which are not defined in this legislation shall have the same meaning as they have in the applied legislation as it has effect in England and Wales.

SCHEDULE 2**AMENDMENT OF THE APPLIED LEGISLATION**

Provision of Regulations	Subject Matter	Modification and Exceptions
Reg.1 (2)	Revocations	Omit
Reg.2 (1)	Interpretation	Omit the definition of “EEA Agreement” and “EEA State” .
Reg.2.(1)	Interpretation	Insert as the first definition “Department means the Isle of Man Department of Trade and Industry”
Reg. 2.(1)	Interpretation	Replace in the definition of Maritime and Coastguard Agency “Department of the Environment, Transport and the Regions” with “Department for Transport”

Reg.2.(1)	Interpretation	<p><i>(The definition of a Pleasure Vessel as amended by SD 396/03)</i></p> <p><i>substitute definition of “pleasure vessel” with:</i></p> <p><i>Pleasure Vessel means any vessel which at the time it is being used:</i></p> <p><i>(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 of friends of the owners; or</i></p> <p><i>(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</i></p> <p><i>(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</i></p> <p><i>(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,</i></p> <p><i>Such lease agreement must specify:</i></p> <p><i>(i) the vessel may only be used for private purposes and must not be used for commercial purposes;</i></p> <p><i>(ii) the vessel must not be sub-leased or chartered;</i></p> <p><i>(iii) no other payments are made by, or on behalf of, or for the benefit of users of the vessel, other than by the lessee.</i></p> <p><i>(e) Is wholly owner by or on behalf of the 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, of for the benefit of users of the vessel, other than by the club”</i></p>
Reg.2 (1)	Interpretation	replace definition of “tons” with -“tons” means gross tons, measured in accordance with the Merchant Shipping (Tonnage Regulations) 1998.
Reg. 2 (2)	Interpretation	Omit
Reg. 3 (2)(a)	Application	substitute “United Kingdom” with “Manx” and delete the “and” from the end of the sentence.
Reg. 3 (2)(b)	Application	Omit

Reg. 4 (2)	Commercially operated large vessels complying with Code of Practice	<p>Substitute</p> <p>“Vessels shall comply with the provisions of the Code of Practice and accordingly any provision of the Code of Practice expressed in the Conditional (i.e. should) shall be a requirement”</p> <p>with</p> <p>“Subject to the provisions of paragraphs 5 and 6 vessels shall comply with the provisions of the Code of Practice”</p>
Reg. 4	Commercially operated large vessels complying with Code of Practice	<p>Insert after Regulation 4.4</p> <p>“4. (5) (a) In lieu of the certificate described in Section 28 of the Code of Practice the Department may issue an Isle of Man Certificate of Compliance.</p> <p>(b) The Department may withdraw an Isle of Man Certificate of Compliance at any time if it is satisfied that the vessel no longer complies with the Code of Practice..</p> <p>(c) An Isle of Man Certificate of Compliance may only be issued following a survey carried out by the Department.</p> <p>(d) An Isle of Man Certificate of Compliance shall be valid for 5 years subject to an annual survey to be conducted by the Department or an organisation authorised by the Department.</p> <p>(e) A renewal survey for a Document of Compliance may only be carried out by the Department.</p> <p>4.(6) Notwithstanding the provisions in Section 4.2 of the Code of Practice , vessels to which these regulations apply shall be classed with one of the following:</p> <p>(a) Lloyd’s Register;</p> <p>(b) Bureau Veritas;</p> <p>(c) American Bureau of Shipping;</p> <p>(d) Det Norske Veritas;</p> <p>(e) Germanischer Lloyd;</p> <p>(f) Registro Italiano Navale; or</p> <p>(g) Nippon Kaiji Kyokai.</p> <p>4.(7) References to the Administration in the Code of Practice shall be read as references to the Department.</p>

Reg.5	Commercially operated small vessels complying with a Code of Practice	Omit all of Regulation 5.
Reg 6	Equivalent Provisions	omit “he is” from “made in that vessel if he is satisfied”
Reg.7	Equivalent Provisions	Substitute “by the bodies and laboratories of other EEA States offering” with “by bodies and laboratories considered by the Department to offer”
Reg. 9	Power to detain	Omit
Schedule 1	Large Vessels	Substitute the list of Statutory Instruments with: Merchant Shipping (Life Saving Appliances) (Ships built before 1 st July 1986) Regulations 1991. GC273/91. Amended by - 248/93 and 37/97. Merchant Shipping (Life Saving Appliances) Regulations 1999 SD431/99 Merchant Shipping (Means of Access) Regulations 1989. GC 280/89. Amended by - 392/92 and 248/93 Merchant Shipping (Navigational Equipment) Regulations 1992. GC 369/92. Amended by - 248/93, 51/97 and 260/98. Merchant Shipping (Survey and Certification) Regulations 1999. SD 352/99 Merchant Shipping (Crew Accommodation) Regulations 1978. GC 795/78 Merchant Shipping (Cargo Ship Construction) Regulations 1998. SD603/98 Merchant Shipping (Fire Protection) Regulations 1984. GC1218/84 Merchant Shipping (Radio Installations) Regulations 1999. SD 50/99 Merchant Shipping (Load Line) Regulations 2000. SD 492/00 Amended by - SD 736/01
Schedule 2	Small Vessels	Omit

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply the UK Statutory Instrument the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 as part of the law of the Island.

The effect of the application is to adopt the “*Code of Practice for Safety of Large Commercial Sailing and Motor Vessels*” made by the United Kingdom Marine Safety Agency for Manx Vessels registered as Commercial Yachts.

The Code of Practice will apply to Manx Commercial Yachts subject to some amendments and modifications which are specified in Schedule 1 and 2 of these Regulations. The main amendment made to the Code as it will apply to Manx vessels is the list of classification societies acceptable to the Department and the issue of Isle of Man Certificates of Compliance.

The Regulations also revoke Part III of the Merchant Shipping (Yachts in Commercial Use) Regulations 1993 SD 248/93.

AMENDMENTS

These Regulations have been subsequently amended by:

SD396/03 Merchant Shipping (Pleasure Vessel) Regulations 2003 which amends the definition of a Pleasure Vessel in all regulations to allow vessels purchased on a long term lease arrangement to fall within the definition of a Pleasure Vessel. The amendment to the definition of a Pleasure Vessel in these Regulations is made at Schedule 2.

Note - SD 865/02 applies SI 2771/98 to the Island, Schedule 2 sets out amendments to SI 2771/98 which are applied to the Island. The effect of making an amendment in Schedule 2 is to make the amendment to the definition of a pleasure vessel as it is contained in SI 2771/98 as applied to the Island.