
STATUTORY INSTRUMENTS

2004 No. 302

The Merchant Shipping (High Speed Craft) Regulations 2004

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (High-Speed Craft) Regulations 2004 and shall come into force on 8 th March 2004.

Interpretation

2. In these Regulations—

“cargo craft” means a high-speed craft, other than a passenger craft, which is capable of maintaining the main functions and safety systems of unaffected spaces after damage in any one compartment on board;

“Category A, B, C or D waters” means waters specified as such in Merchant Shipping Notice 1776(M);

“constructed” means a craft the keel of which is laid or which is at a similar stage of construction, and “similar stage of construction” means a stage at which construction identifiable with a specific craft begins and assembly of that craft has commenced comprising at least 50 tonnes or 3 per cent of the estimated mass of all structural material, whichever is the less;

“craft” means ships and hovercraft;

“gross tonnage” means gross tonnage within the meaning of regulation 6 of the Merchant Shipping (Tonnage) Regulations 1997(1);

“high speed craft” means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding: $3.7\sqrt[3]{0.1667V}$ where V = volume of displacement corresponding to the design waterline (m³), excluding craft the hull of which is supported clear above the water surface in non displacement mode by aerodynamic forces generated by ground effect;

“High Speed Craft Code 1994” means the International Code of Safety for High-Speed Craft adopted by the Maritime Safety Committee of the International Maritime Organisation by resolution MSC.36(63) of 20th May 1994 and amended by resolution MSC.119.(74) of 6th June 2001 and MSC Circular 1057 of 23rd December 2002 and includes any document amending it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“High Speed Craft Code 2000” means the International Code of Safety for High-Speed Craft 2000 adopted by the Maritime Safety Committee of the International Maritime Organisation by resolution MSC.97(73) of 5th December 2000 and amended by resolution MSC.119(74) of 6th June 2002 and includes any document amending it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport), and any reference to a particular Merchant Shipping Notice includes reference to any such document amending

or replacing that Notice which is considered by the Secretary of State to be relevant from time to time;

“operational speed” means 90 per cent of the maximum speed of which the craft is capable;

“owner” shall be construed in accordance with paragraph (3);

“passenger craft” means a craft carrying more than 12 passengers;

“place of refuge” means any naturally or artificially sheltered area which may be used as a shelter by craft under conditions likely to endanger its safety;

“pleasure craft” means —

(a) any craft which is —

(i) wholly owned by an individual or individuals and used only for the sport or pleasure of the owner or the immediate family or friends of the owner, or

(ii) owned by a body corporate and used only for the sport or pleasure of employees or officers of the body corporate, or their immediate family or friends,

and is on a voyage which is one for which the owner does not receive money for or in connection with operating the craft or carrying any person, other than as a contribution to the direct expenses of the operation of the craft incurred during the voyage, or

(b) any craft which is wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, 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 for the use of which any charges levied are paid into club funds and applied for the general use of the club,

and no payments other than those mentioned are made by or on behalf of users of the craft, other than by the owner, and in this definition “immediate family” means in relation to an individual, the husband or wife of the individual, and a brother, sister, ancestor or lineal descendant of that individual or that individual’s husband or wife;

“United Kingdom high speed craft” means a high speed craft which is a United Kingdom ship or a hovercraft registered in the United Kingdom;

“voyage” includes an excursion;

“wash” means the sweep of waves left behind by a moving craft, classified as sub-critical, critical or supercritical in terms of the depth Froude number $F_{nh} = V_S / \sqrt{gh}$ where F_{nh} describes the ratio of the vessel’s speed to the wave propagation velocity in shallow water, V_S is the ship speed in metres per second, g is the acceleration due to gravity and h is the water depth in metres: for the purposes of classification “sub-critical” means $F_{nh} < 0.85$, “critical” means $F_{nh} = 0.85$ to 1.15 and “supercritical” means $F_{nh} > 1.15$;

(2) Having been made mandatory under regulation 6 below, the language of the High Speed Craft Code 1994 and the High Speed Craft Code 2000 shall be construed accordingly, and in particular “should” shall be construed as “shall”.

(3) Where a high speed craft is managed by a person other than its owner (whether on behalf of the owner or some other person, or on his own behalf), a reference in these Regulations to the owner shall be construed as including a reference to that person.

(4) References to proceeding to sea or on a voyage over water include proceeding on or over land, so far as such proceeding is part of that voyage.

Application

3.—(1) Subject to paragraphs (2) and (3), these Regulations apply to every high-speed craft which meets all of the following criteria:

- (a) it is either a United Kingdom high-speed craft, or a non-United Kingdom high-speed craft in United Kingdom waters,
 - (b) it is constructed on or after 1st January 1996, or was constructed before 1st January 1996 and repairs, alterations or modifications, or outfitting relating thereto, of a major character are made on or after 1st January 1996,
 - (c) it is (wholly or partly) sea-going or operating in any Category A, B, C or D waters, and
 - (d) it is:
 - (i) a passenger craft which does not proceed in the course of its voyage more than 4 hours at operational speed from a place of refuge when fully laden,
 - (ii) a craft which is carrying passengers for hire or reward which is not a passenger craft and which does not proceed in the course of its voyage more than 4 hours at operational speed from a place of refuge when fully laden,
 - (iii) a cargo craft of 500 gross tonnage or more which does not proceed in the course of its voyage more than 8 hours at operational speed from a place of refuge when fully laden, or
 - (iv) a cargo craft of less than 500 gross tonnage which is carrying cargo for hire or reward and which does not proceed in the course of its voyage more than 8 hours at operational speed from a place of refuge when fully laden.
- (2) These Regulations do not apply to a high speed craft which is:
- (a) a pleasure craft,
 - (b) a warship, naval auxiliary or other craft owned or operated by a State and used, for the time being, only on government non-commercial service,
 - (c) a craft not propelled by mechanical means,
 - (d) a wooden craft of primitive build,
 - (e) a fishing craft,
 - (f) a craft which has been examined, and in respect of which appropriate certificates have been issued, in accordance with one of the following documents referred to in regulations 4 and 5 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998(2), or in accordance with any document amending one or more of those documents which is considered by the Secretary of State to be relevant from time to time:
 - (i) the Code of Practice for Safety of Large Commercial Sailing and Motor Vessels,
 - (ii) The Safety of Small Commercial Sailing Vessels – A Code of Practice,
 - (iii) The Safety of Small Commercial Motor Vessels – A Code of Practice,
 - (iv) The Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point - A Code of Practice,
 - (g) a craft which has been surveyed, certified and maintained in accordance with, and which complies with, regulation 5 of the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998(3).
- (3) These Regulations apply to a high speed craft which is within the description set out in regulation 4(3) (Application) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000(4) subject to the provisions of those Regulations.

(2) S.I. 1998/2771, amended by S.I. 2000/482 and S.I. 2002/1473.

(3) S.I. 1998/1609.

(4) S.I. 2000/2687.

Exemptions

4.—(1) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for individual cases or classes of cases on such terms (if any) as he may specify, if he is satisfied that—

- (a) compliance with such provision is either impracticable or unreasonable in that case or class of cases, and
- (b) the exemption is subject to such conditions and limitations as will provide a level of safety equivalent to that provided by the provision or provisions from which exemption is being granted.

(2) The Secretary of State 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 be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

Approvals

5.—(1) The Secretary of State may as respects a United Kingdom craft grant an approval for any thing in either the High-Speed Craft Code 1994 or the High Speed Craft Code 2000 which requires the approval of the Government of the State whose flag the craft is entitled to fly.

(2) The Secretary of State may, on giving reasonable notice, alter or cancel any approval given under paragraph (1) above.

(3) An approval given under paragraph (1) and an alteration or cancellation under paragraph (2) shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

High Speed Craft Code

6.—(1) Subject to paragraphs (2) and (4), a high speed craft to which these Regulations apply which was constructed on or after 1st January 1996 but before 1st July 2002, or which was constructed before 1st January 1996 and to which repairs, alterations or modifications, or outfitting relating thereto, of a major character were made on or after 1st January 1996 but before 1st July 2002, shall comply with:

- (a) the High Speed Craft Code 1994, and
- (b) the requirements specified in Merchant Shipping Notice M.1672 (which relates to ship inspections and survey organisations) relevant to a high speed craft of its description.

(2) Subject to paragraph (4), a high speed craft to which these Regulations apply which was constructed on or after 1st July 2002, or which was constructed before 1st July 2002 and to which repairs, alterations or modifications, or outfitting relating thereto, of a major character are made on or after 1st July 2002, shall comply with:

- (a) the High Speed Craft Code 2000, and
- (b) the requirements specified in Merchant Shipping Notice M.1672 relevant to a high speed craft of its description.

(3) The requirements specified in Merchant Shipping Notice M.1672 are:

- (a) in relation to craft to which paragraph (1) applies, approved standards relating to construction or maintenance relating to hull, machinery, electrical installations and control installations,

- (b) in relation to craft to which paragraph (2) applies, requirements relating to hull, machinery, electrical installations and control installations which correspond to the requirements of the High-Speed Craft Code 2000.

(4) United Kingdom high speed craft and other high speed craft operating on a scheduled service from any port in the United Kingdom to any port in another Member State, or vice versa, or operating on a voyage which is not an international voyage shall, in so far as it relates to equipment to which the Merchant Shipping (Marine Equipment) Regulations 1999⁽⁵⁾ applies, comply with the requirements of those Regulations.

(5) A high speed craft to which these Regulations apply shall, alternatively or additionally (as the case may be) to the requirements of paragraphs (1) to (4) above, comply with such requirements as apply in relation to a craft of its description which:

- (a) relate to the High Speed Craft Code 1994 or the High Speed Craft Code 2000 or to amendments from time to time of one of those Codes,
- (b) relate to all or any of the purposes set out in section 85(1) of the Merchant Shipping Act 1998 which is considered by the Secretary of State to be relevant from time to time, and
- (c) are specified as alternative or additional requirements in a Merchant Shipping Notice relate to all or any of the purposes set out in section 85(1) of the Merchant Shipping Act 1998.

Risk assessment with reference to wash

7.—(1) A passage plan prepared in accordance with the High-Speed Craft Code 1994 or the High-Speed Craft Code 2000 (as applicable) shall include a full risk assessment of the passage plan with respect to wash.

- (2) The risk assessment required by paragraph (1) shall:
 - (a) be carried out in accordance with generally recognised procedures for risk assessment,
 - (b) identify:
 - (i) any likely areas of potentially hazardous wash, taking into account possible operating conditions and the classification of wash as sub-critical, critical or super-critical, and
 - (ii) the operating restrictions necessary to reduce that potentially hazardous wash, and
 - (c) be documented in the operating manual required by the High-Speed Craft Code 1994 or the High-Speed Craft Code 2000, as applicable.

Permit to operate

8.—(1) A Permit to Operate which is issued as respects a passenger craft by the Secretary of State in accordance with the High Speed Craft Code 1994 or the High Speed Craft Code 2000 shall state the maximum number of passengers which that craft is allowed to carry on board.

(2) A Permit to Operate issued in accordance with paragraph (1) shall set out, and be subject to, the operating restrictions identified in accordance with regulation 7.

(3) The owner and master of a passenger craft shall ensure that the craft does not carry more than the maximum number of passengers as stated in the craft's Permit to Operate.

Offences in connection with passenger craft

- 9.—(1) A person on board a high speed passenger craft who:
 - (a) is drunk and disorderly, and

(5) S.I. 1999/1957, amended by S.I. 2001/1638.

(b) if he has paid a fare has had that fare returned or tendered to him, shall, if so requested by the master or crew, leave the ship at any place in the United Kingdom at which he can conveniently do so.

(2) A person who is on board a high speed passenger craft shall not, after being warned by the master or crew, molest or continue to molest any passenger.

(3) A person who is on board a high speed passenger craft shall not intentionally do or cause to be done anything in such a manner as to:

- (a) obstruct or damage any part of the machinery or equipment of that craft, or
- (b) obstruct, impede or molest the master or crew, or any of them, in the navigation or management of the craft, or otherwise in the execution of their duty on or about the craft.

Offences and penalties

10.—(1) Any contravention of these Regulations, other than regulation 9, in respect of a high speed craft shall be an offence by both the owner and the master of that craft punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years or a fine, or both.

(2) Any contravention of regulation 9 shall be an offence punishable on summary conviction by a fine not exceeding level 2 on the standard scale.

(3) It shall be a defence for a person charged under these Regulations to show that he took all reasonable steps to ensure compliance with the Regulations.

Detention

11. In any case where a high speed craft does not comply with the requirements of these Regulations, the craft shall be liable to be detained and section 284(1) to (6) and (8) of the Merchant Shipping Act 1995(6) (which relates to the detention of a ship) shall have effect in relation to that craft, as if for the words “this Act” wherever they appear, there were substituted the words “the Merchant Shipping (High Speed Craft) Regulations 2004” and for the word “ship” there were substituted “high speed craft”.

Revocation and amendment of Regulations and Order

12.—(1) The Merchant Shipping (High Speed Craft) Regulations 1996(7) shall be revoked.

(2) The Merchant Shipping (Survey and Certification) Regulations 1995(8) shall be amended by the insertion after regulation 2(2) (Application and exemption) of the following:

“(3) These Regulations shall not apply to a United Kingdom ship which is a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding: $3.7 \# 0.1667$ where $\#$ = volume of displacement corresponding to the design waterline (m³) and which has been surveyed, certified and maintained in accordance with and complies with the requirements of the Merchant Shipping (High-Speed Craft) Regulations 2004.”.

(3) The enactments specified in the Schedule to these Regulations shall have effect subject to the amendments specified in that Schedule.

(6) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 1, paragraph 5.

(7) S.I. 1996/3188, amended by S.I. 1999/1957.

(8) S.I. 1995/1210, amended by S.I. 1996/2418, S.I. 2000/1334 and S.I. 2003/771.

Signed by authority of the Secretary of State for Transport

9th February 2004

David Jamieson
Parliamentary Under Secretary of State,
Department for Transport