

2006 No. 3224

MERCHANT SHIPPING

**The Merchant Shipping (Local Passenger Vessels) (Crew)
Regulations 2006**

<i>Made</i> - - - -	<i>5th December 2006</i>
<i>Laid before Parliament</i>	<i>7th December 2006</i>
<i>Coming into force</i> - -	<i>1st January 2007</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by sections 85(1), (3), (5) and (7) and 86(1) and (2) of the Merchant Shipping Act 1995(a);

He has, in accordance with section 86(4) of that Act, consulted such persons as he considers will be affected.

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Local Passenger Vessels) (Crew) Regulations 2006 and come into force on 1st January 2007.

Interpretation

2. In these Regulations—

“the 1993 Regulations” means the Merchant Shipping (Local Passenger Vessels) (Masters’ Licences and Hours, Manning and Training) Regulations 1993(b);

“the Act” means the Merchant Shipping Act 1995;

“boatmaster’s licence” and “boatmaster’s certificate” have the meanings given in the Boatmasters’ Qualifications Regulations;

“Boatmasters’ Qualifications Regulations” means the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters’ Qualifications and Hours of Work) Regulations 2006(c);

“Category A, B, C or D waters” means the waters respectively specified as Category A, B, C or D in Merchant Shipping Notice M1504 and any subsequent Merchant Shipping Notice amending or replacing it which specifies the date on which it has effect and which the Secretary of State considers relevant from time to time (and “Merchant Shipping Notice” means a notice describing itself as such and issued by the Maritime and Coastguard Agency, an executive agency of the Department for Transport);

(a) 1995 c.21. Section 85, subsections (1) and (3), was amended by the Merchant Shipping and Maritime Security Act 1997 (c.28), section 8 and Schedule 7 Part 1.

(b) S.I. 1993/1213.

(c) S.I. 2006/ 3223.

“crew” includes every person, other than the master or a pilot, employed or engaged in any capacity on board a vessel;

“master” includes any person (except a pilot) having command or charge of a vessel;

“pilot” means a person not belonging to a vessel who has the conduct of the vessel;

“mile” means a nautical mile of 1852 metres;

“United Kingdom vessel” has the same meaning as “United Kingdom ship” in section 85(2) of the Act;

“vessel” has the same meaning as “ship” in section 313(1) of the Act;

“voyage” includes an excursion.

Application

3.—(1) Except where regulation 5 applies, regulation 4 applies to every United Kingdom vessel which is a passenger ship of a class specified in the following table:

Table: Classification of passenger ships

<i>Class of ship</i>	<i>Description</i>
Class IV	Vessels engaged only on voyages in waters of category A, B, C or D
Class V	Vessels engaged only on voyages in waters of category A, B or C
Class VI	Vessels carrying not more than 250 passengers engaged on voyages to sea or in waters of category A, B, C or D, in favourable weather and during restricted periods, in the course of which the vessels are at no time more than 15 miles (exclusive of waters of category A, B, C or D) from their point of departure or more than 3 miles from land
Class VI(A)	Vessels carrying not more than 50 passengers engaged on voyages over a distance of not more than 6 miles to or from isolated communities on the islands or coast of the United Kingdom and in the course of which they are never more than 3 miles from land

(2) In paragraph (1)—

“favourable weather” means fine, clear, settled weather with a sea state such as to cause only moderate rolling or pitching;

“passenger” means any person carried in a vessel other than—

- (a) the master, a member of the crew or other person employed or engaged in any capacity on board the vessel on the business of the vessel,
- (b) a person on board the vessel in pursuance of an obligation laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstance that neither the master nor the owner could have prevented or forestalled, and
- (c) a child under one year old;

“passenger ship” means a vessel carrying more than 12 passengers;

“restricted period” means a period falling within the following limits—

- (a) from the 1st April to 31st October, both dates inclusive; and
 - (b) (i) in the case of a vessel fitted with navigation lights conforming to the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996(a), between one hour before sunrise and one hour after sunset, or
- in the case of any other vessel, between sunrise and sunset.

(a) S.I. 1996/75, amended by S.I. 2004/302.

Qualifications of members of the crew of local passenger vessels

4.—(1) The owner of a vessel to which this regulation applies must give notice in writing to the Secretary of State proposing either that it is appropriate or that it is not appropriate that, when the vessel is engaged on a voyage, a member of the crew should be the holder of—

- (a) a boatmaster's licence of any class,
 - (b) a boatmaster's certificate of any class, or
 - (c) any other qualification which it would be appropriate for a master of the vessel to hold and which is prescribed for that purpose by the Boatmasters' Qualifications Regulations.
- (2) The Secretary of State may approve the vessel owner's proposal that—
- (a) a member of the crew should be the holder of a qualification specified in the notice given under paragraph (1), or
 - (b) that no crew member need be the holder of any such qualification,

and if he does so he must record that approval in writing and send a copy to the vessel owner.

(3) An approval made under paragraph (2) may be made subject to conditions.

(4) The record of an approval under paragraph (2) must specify—

- (a) the date on which the approval takes effect, and
- (b) the conditions (if any) to which it is subject.

(5) A vessel to which this regulation applies must not proceed on a voyage unless—

- (a) notice has been given to the Secretary of State in accordance with paragraph (1),
- (b) the Secretary of State has recorded, in accordance with paragraphs (2) to (4), his approval of the proposal made in that notice as to which qualifications (if any) should be held by a member of the crew, and
- (c) the vessel is crewed in accordance with that approval.

Approvals given under the 1993 Regulations

5.—(1) This regulation applies where an approval (a "1993 Regulations approval") has been given by the Secretary of State under paragraph (2)(b) of regulation 14 of the 1993 Regulations to a proposal notified to him by a vessel owner under paragraph (1)(c) of that regulation.

(2) Where a 1993 Regulations approval states that a member of the crew should be the holder of a licence of a specified grade under Part II of the 1993 Regulations, that approval shall continue to have effect until the date on which an approval under regulation 4(2) takes effect in respect of that vessel.

(3) Where a 1993 Regulations approval states that a member of the crew need not be the holder of a licence under Part II of the 1993 Regulations, it shall continue to have effect as if it were an approval, given under regulation 4(2)(b), that no crew member need be the holder of any qualification mentioned in regulation 4(1).

(4) Where a 1993 Regulations approval was given subject to any conditions, those conditions shall also continue to have effect.

(5) While a 1993 Regulations approval has effect, the vessel to which the approval applies must not proceed on a voyage unless it is crewed in accordance with it.

Offences

6.—(1) If a vessel proceeds on a voyage in contravention of—

- (a) regulation 4(5), or
- (b) regulation 5(5),

the owner and master shall each be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) It is a defence to a charge under this regulation that the person charged took all reasonable steps to avoid commission of the offence.

Detention of vessels

7.—(1) Where a person (a “relevant inspector”) mentioned in paragraph (a), (b) or (c) of section 258(1) of the 1995 Act (powers to inspect ships and their equipment, etc) is satisfied that an offence under regulation 6 is being committed in relation to any vessel, the vessel is liable to be detained.

(2) Where a vessel is liable to be detained under paragraph (1), the relevant inspector detaining it must serve on the master of the vessel a detention notice which—

- (a) states that the relevant inspector is of the opinion that an offence under regulation 6 has been committed,
- (b) specifies the reasons for that opinion, and
- (c) prohibits the vessel from commencing a voyage until a relevant inspector is satisfied it can do so in circumstances where no such offence is committed.

(3) Sections 96 and 97 of the 1995 Act (arbitration and compensation in connection with detention notices) shall apply in relation to a detention notice under paragraph (2) as they apply to a detention notice under section 95 (power to detain dangerously unsafe ship) but with the following words omitted from section 96—

- (a) in subsection (1), “in pursuance of section 95(3)(b)”,
- (b) in subsection (3), “to whether the ship was or was not a dangerously unsafe ship”,
- (c) in subsection (5), “as a dangerously unsafe ship”.

(4) Where a vessel is liable to be detained under to this regulation, section 284 of the 1995 Act (enforcing detention of ship) shall apply with the following modifications—

- (a) for subsection (1) there is substituted—

“(1) Where under the Merchant Shipping (Local Passenger Vessels) (Crew) Regulations 2006 a vessel is liable to be detained a relevant inspector may detain the vessel.”
- (b) in subsection (4), for the words from “any of the following” to “any surveyor of ships” there is substituted “any relevant inspector”;
- (c) subsections (6) and (7) are omitted; and
- (d) at the end there is inserted—

“(9) ”In this section, relevant inspector” means any person mentioned in paragraph (a), (b) or (c) of section 258(1).”

Revocation

8. The 1993 Regulations are revoked to the extent that they are not revoked by Boatmasters’ Qualifications Regulations.

Signed by authority of the Secretary of State for Transport

5th December 2006

S.J. Ladyman
Minister of State,
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact that part of regulation 14 (additional crew) of the Merchant Shipping (Local Passenger Vessels) (Masters' Licences and Hours, Manning and Training) Regulations 1993 (S.I. 1993/1213, the "1993 Regulations") as relates to the qualifications to be held by members of the crew of passenger ships operating on inland waterways and on some short coastal voyages. The remaining provisions of regulation 14 have been superseded by the provisions in the Merchant Shipping (Survey and Certification) Regulations 1995 (S.I. 1995/1210) relating to passenger certificates for such vessels. The Regulations also make transitional provision for approvals given under the 1993 Regulations and re-enact regulation 16 of those Regulations (power to detain) for the purpose of enforcement.

The greater part of the 1993 Regulations is being contemporaneously revoked and replaced by the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006 (S.I. 2006/3223). The provisions of regulation 14 re-enacted in these Regulations have been modified to take account of those Regulations.

No Regulatory Impact Assessment has been prepared in connection with these Regulations as they are not considered to have any impact on the costs or savings of business or the voluntary or public sectors.

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