



BERMUDA

MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2010

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TABLE OF CONTENTS

1	Citation
2	Interpretation
3	Application
4	Exemptions
5	Approvals
6	High Speed Craft Code
7	Risk assessment with reference to wash
8	Permit to Operate
9	Offences in connection with passenger craft
10	Offences and penalties
11	Detention
12	Consequential amendment

The Minister responsible for Maritime Administration, after consulting the persons referred to in section 94(3) of the Merchant Shipping Act 2002, and in exercise of the powers conferred by section 93(1) of that Act, makes the following regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (High Speed Craft) Regulations 2010.

Interpretation

2 (1) In these Regulations —

“Bermuda high speed craft” means a high speed craft which is a Bermuda ship or a hovercraft registered in Bermuda;

MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2010

- “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;
- “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% of the estimated mass of all structural material, whichever is less;
- “craft” means ships and hovercraft;
- “gross tonnage” means gross tonnage within the meaning of regulation 6 of the Merchant Shipping (Tonnage) Regulations 2008;
- “high speed craft” means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding: $3.7 \nabla^{0.1667}$ where ∇ = volume of displacement corresponding to the design waterline (m^3), 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 20 May 1994 and amended by resolution MSC.119(74) of 6 June 2001 and MSC Circular 1057 of 23 December 2002 and includes any document amending it which is considered by the Minister to be relevant from time to time;
- “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 5 December 2000 and amended by resolution MSC.119(74) of 6 June 2002 and includes any document amending it which is considered by the Minister to be relevant from time to time;
- “Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency, UK and any reference to a particular Merchant Shipping Notice includes reference to any such document amending or replacing that Notice;
- “operational speed” means 90% 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 vessel” means —
- (a) a vessel which at the time it is being used is —

MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2010

- (i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or immediate family or friends of the owner; or in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the passengers are employees or officers of the body corporate, or their immediate family or friends; and
- (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying 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 or on behalf of users of the vessel other than by the owner; or

- (b) any vessel 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 other payments are made by or on behalf of users of the vessel, other than by the owner; and, for the purposes of this definition, "immediate family" means in relation to an individual, the husband or wife of the individual and a relative of the individual or the individual's husband or wife, and "relative" means brother, sister, ancestor or lineal descendant;

"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, 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 paragraph (2), these Regulations apply to every high speed craft which meets all of the following criteria—

MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2010

- (a) it is either a Bermuda high speed craft, or a non-Bermuda high speed craft in Bermuda waters;
 - (b) it is constructed on or after 1 January 1996, or was constructed before 1 January 1996 and repairs, alterations or modifications, or outfitting relating thereto, of a major character are made on or after 1 January 1996;
 - (c) it is—
 - (i) a passenger craft which does not proceed in the course of its voyage more than four 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 four 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 eight 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 eight 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 UK Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998, or in accordance with any document amending one or more of those documents which is considered by the Minister to be relevant from time to time—
 - (i) the Safety of Large Commercial Sailing and Motor Vessels - A Code of Practice;
 - (ii) the Safety of Small Commercial Sailing Vessels - A Code of Practice;
 - (iii) the Safety of Small Commercial Motor Vessels - A Code of Practice;

MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2010

- (iv) the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point - A Code of Practice.

Exemptions

4 (1) The Minister may grant exemptions from all or any 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 Minister 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 Minister may as respects a Bermuda craft grant an approval for anything 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 Minister may, on giving reasonable notice, alter or cancel any approval given under paragraph (1).

(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 1 January 1996 but before 1 July 2002, or which was constructed before 1 January 1996 and to which repairs, alterations or modifications, or outfitting relating thereto, of a major character were made on or after 1 January 1996 but before 1 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 1 July 2002, or which was constructed before 1 July

MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2010

2002 and to which repairs, alterations or modifications, or outfitting relating thereto, of a major character are made on or after 1 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; and
 - (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) A high speed craft to which these Regulations apply shall, alternatively or in addition (as the case may be) to the requirements of paragraphs (1) to (3), 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 93(1) of the Merchant Shipping Act 2002 which is considered by the Minister to be relevant from time to time; and
 - (c) are specified as alternative or additional requirements in a Merchant Shipping Notice relating to all or any of the purposes set out in section 93(1) of the Merchant Shipping Act 2002.

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 supercritical; 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.

MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2010

Permit to Operate

8 (1) A Permit to Operate which is issued as respects a passenger craft by the Minister 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 or 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

(b) has paid a fare and has had that fare returned or tendered to him,

shall, if so requested by the master or crew, leave the ship at any place 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 \$10,000 and on conviction on indictment by imprisonment for a term not exceeding two years or both such fine and imprisonment.

(2) Any contravention of regulation 9 shall be an offence punishable on summary conviction by a fine not exceeding \$1,000.

(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.

MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2010

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 242 (1) to (6) and (8) of the Merchant Shipping Act 2002 (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 2010" and for the word "ship" there were substituted "high speed craft".

Consequential amendment

12 In regulation 2(4) of the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 2005, for the words after "high speed craft" there shall be substituted the following—

“ means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding: $3.7 \nabla^{0.1167}$ where ∇ = volume of displacement corresponding to the design waterline (m^3), excluding craft the hull of which is supported clear above the water surface in non displacement mode by aerodynamic forces generated by ground effect.”.

Made this 14th day of September, 2010.

Premier