

Regulations made under ss. 2, 3, 5, 6, 10, 11, 14, 17, 25, 38 and 86(a).

**GIBRALTAR MERCHANT SHIPPING (PLEASURE  
YACHTS) REGULATIONS, 1997**

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**Title and commencement.**

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Pleasure Yachts) Regulations, 1997 and shall come into effect on the day appointed by the Governor as the day on which—

- (a) section 2 in so far as it relates to the Register of Pleasure Yachts;
- (b) section 3(3) in respect of functions of the Registrar in connection with the Register of Pleasure Yachts and pleasure yachts registered on that Register or seeking to be so registered or having been so registered;
- (c) section 5 in so far as the Register of Pleasure Yachts is concerned;
- (d) section 6(4) in so far as the Register of Pleasure Yachts is concerned;
- (e) sections 10, 11, 14, 17 and 25 in respect of pleasure yachts registered or seeking to be registered in Gibraltar;
- (f) Part IV;
- (g) Part VIII, except section 64(2), in respect of registered pleasure yachts or pleasure yachts seeking to be registered in Gibraltar;
- (h) section 86 in respect of—
  - (i) fees charged in connection with matters specified in these Regulations; and
  - (ii) any other matters necessary or reasonably incidental to the Register of Pleasure Yachts and pleasure yachts registered on that Register or seeking to be so registered or, in respect of that registration, having been so registered;

of the Gibraltar Merchant Shipping (Registration) Act, 1993 shall come into effect.

**Interpretation and application of the Act.**

2.(1) In these Regulations, unless the context shall otherwise require,—

“Acts” means the Acts of Parliament which may be cited as the Merchant Shipping Acts 1894-1988 and any Acts repealing or amending the same as applied in or extended to Gibraltar immediately before the effective date;

“approved” means approved by the Registrar;

“builder’s mortgage” means a mortgage in favour of a pleasure yacht builder, and when recorded, having the effect prescribed in regulation 50;

“Certificate of Registry” means the certificate issued under regulation 28;

“Certifying Authority” means the Certifying Authority provided for in the tonnage instructions;

“consular official” means a person appointed by the responsible state to be or to perform the functions of a consular official in respect of Gibraltar outside of Gibraltar;

“contravene”, in relation to any provision, includes a failure to comply with that provision, or with any requirement of an International Convention ratified by the United Kingdom and the application of which has been extended to Gibraltar and to which the provision relates;

“Council Directive” means a directive of the European Economic Communities;

“declaration of ownership” means the declaration required by regulation 16;

ÒEEAÓ means the territories to which the EEA Agreement applies;

ÒEEA AgreementÓ means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

ÒEEA StateÓ means a State which is a Contracting Party to the EEA Agreement;

“effective date” means the date on which these Regulations have effect in accordance with regulation 1;

“foreign maritime entity” means a legal entity, whether or not a body corporate, recognised as having the capacity to own a pleasure yacht under the laws of the jurisdiction in which the entity has its existence and which satisfied the provisions set out in Schedule 1;

“incorporated or registered under the Laws of Gibraltar” means incorporated or registered under the Companies Act;

“index” has the meaning given to it in regulation 50;

“length” has the meaning given to it in the tonnage instructions;

“master” includes every person (except a pilot) having command or charge of a pleasure yacht;

“maritime lien” means a lien or charge falling within regulation 61;

“Merchant Shipping Act” means the Merchant Shipping Act in effect immediately before the effective date;

“mortgage” means a written instrument providing security for the performance of a duty or the payment of a debt and shall include a hypothecation, pledge or such other instrument having like effect the form of which shall be approved from time to time by the Registrar;

“mortgagee” means the person or persons in favour of whom a mortgage is made or to whom the benefit of a mortgage has been assigned;

“operator” means, where that person is not the owner, the person having the right to or exercising the powers of operating the pleasure yacht;

“owner” as applied to an unregistered yacht or share therein means the legal owner, and as applied to a registered yacht or share therein means the registered owner;

“prescribed fees” means the fees prescribed in Schedule 1;

- “prohibited pleasure yacht” means a pleasure yacht the registration of which on the Register is prohibited by these Regulations and which is prescribed in Schedule 2;
- “proper colours” means the proper colours of Gibraltar as referred to in regulation 44 and described in Schedule 3;
- “Provisional Certificate of Registry” means the certificate of registry issued under regulation 21 and “provisionally registered” and “provisional registration” shall be construed accordingly;
- “qualified person” means a person so defined by regulation 4(3);
- “Register” means the register of pleasure yachts provided for in regulation 3(1) and “registered” and “registered pleasure yacht” shall be construed accordingly;
- “Register of Foreign Maritime Entities” means the register provided for in Schedule 1;
- “registered agent” means a person satisfying the requirements of regulation 8 in respect of registered agents;
- “registered ship” means a ship registered under the Act;
- “Registrar” means the Registrar of Pleasure Yachts appointed under regulation 3;
- “Registrar’s Instructions” means instructions issued by the Registrar in exercise of his powers under regulation 3(5);
- “related instrument” has the meaning given to it in regulation 50(8);
- “relevant country” means a country prescribed in accordance with regulation 32(3);
- “representative person” means a person satisfying the requirements of regulation 5 in respect of representative persons;
- “standard scale” means the standard scale of penalties contained in the Criminal Procedure Act and references to levels on that scale are references to the levels as determined from time to time in accordance with that Act;

“tonnage” has the definition given to it in the International Convention on Tonnage Measurement of Ships 1969 and any amendment thereto or replacement thereof and “gross tonnage” and “net tonnage” shall be similarly construed;

“tonnage instructions” means—

- (a) the regulations referred to in regulation 19(2), as they apply to a pleasure yacht; and
- (b) the instructions made under regulation 19(3);

“year”, in relation to a Certificate of Registry, certification of renewal of registration and the compulsory inspection of a pleasure yacht, means a period of twelve calendar months from the date of issue of the latest Certificate of Registry, certification of renewal of registration or certificate of inspection of that yacht, as the case may be, and in relation to all other matters means calendar year.

(2) Taking account of the effect of subsection (2) of section 38 of the Act and the provisions of subsection (3) of that section, the following provisions of the Act, having been applied to pleasure yachts in these Regulations, are prescribed as provided for in that sub-regulation, that is to say—

- (a) section 2;
- (b) section 3, except subsection (3);
- (c) section 4;
- (d) Parts V, VI VII, VIII and IX.

#### **Register of Pleasure Yachts.**

3.(1) There shall be a Register of Pleasure Yachts, in these Regulations and in any other regulations made under the Act and applying to the Register of Pleasure Yachts referred to as “the Register”.

(2) The Minister shall appoint and may remove a person, to be styled the “Registrar of Pleasure Yachts” who shall in relation to the Register exercise such functions as are from time to time conferred upon him by the Act and these Regulations or which he is designated to discharge on behalf of the Maritime Administrator by the Minister and shall keep such records and



perform such other duties as are provided for in the Act and these Regulations.

(3) The appointment made under sub-regulation (2) shall constitute the designation of the Registrar to discharge, on behalf of the Maritime Administrator, those functions of the Maritime Administrator provided for in the Act which relate to the Register or to pleasure yachts registered on the Register or seeking to register on the Register or, in respect of matters connected with the Register, having been so registered.

(4) The location in Gibraltar of the office of Registrar shall be specified by notice in the Gazette.

(5) The Registrar—

- (a) may make and issue such Registrar's Instructions, not inconsistent with the Act and these Regulations, and after consultation with the Maritime Administrator, as may be required or as may appear to him to be necessary or expedient for the better carrying out of the provisions of these Regulations in respect of the Register, and
- (b) shall make and issue Registrar's Instructions where required to do so by the provisions of the Act, or regulations or Ministerial direction made thereunder and shall, in such case, do so in accordance with those provisions,

and where those instructions are issued in fulfilment of a requirement of the Act, or these Regulations or Ministerial direction made thereunder, they shall be in published form and shall be supplied—

- (c) to the registered agent of every registered pleasure yacht to which they are applicable;
- (d) on demand from the Register.

(6) Where in these Regulations there is a reference to a specified form, manner or content—

- (a) that form, manner or content may be specified by the Registrar in Registrar's Instructions; and

- (b) if the Registrar's Instructions so provide, deviation from the specified form, manner or content not affecting the substance thereof shall not invalidate such form, manner or content.

(7) The Register shall be in such form, compatible with the requirements of the Act and these Regulations, as the Registrar may determine and shall contain such particulars in respect of the pleasure yacht, the owner or owners, and if there is more than one owner, the percentage interest of each owner in the pleasure yacht, mortgages, recordable instruments and registered agents as are prescribed.

(8) The Register may be kept in legible or non-legible form, but if kept in non-legible form any entry in the Register—

- (a) shall be capable of being reproduced in legible form;
- (b) if reproduced in accordance with paragraph (a) and certified by or on behalf of the Registrar as a true copy of an entry stored in non-legible form, shall be admissible in any court.

(9) Any person may, on payment of the prescribed fee—

- (a) inspect the Register;
- (b) require to be furnished with a copy of or extract from the entry in respect of any pleasure yacht in the Register in legible form;
- (c) require such copy or extract to be certified as a true copy by or on behalf of the Registrar.

(10) The Register shall be available for inspection at the office of the Registrar.

(11) The Register shall consist of pleasure yachts holding a Certificate of Registry or a Provisional Certificate of Registry.

(12) The several fees and charges prescribed in Schedule 4 shall be charged and be payable in respect of the matters therein prescribed and unless the fees and charges so prescribed and any fees and charges outstanding to the Register shall have been paid the Registrar shall not be required to provide any service under these Regulations to a registered agent from whom payment is outstanding or in connection with a pleasure yacht in respect of which fees or charges are outstanding.

## Registerable pleasure yachts.

4.(1) Subject to the provisions of these Regulations, a vessel is registerable on the Register if—

- (a) it is a pleasure yacht within the meaning given to that expression in the Act and these Regulations; and
- (b) a majority interest in the pleasure yacht is owned by one or more qualified persons; and
- (c) where required by these regulations, a registered agent is appointed; and
- (d) the pleasure yacht is not of a category the Registration of which on the Register is prohibited by virtue of a notice served on the Registrar by the Minister and which is prescribed in Schedule 2.

(2) For the purposes of this regulation, one or more persons shall be treated as owning a majority interest in a pleasure yacht, if there is vested in that person or in those persons, taken together, the legal title to more than one half of the shares or parts into which the property in a pleasure yacht is divided for the purposes of registration, there being left out of account for this purpose, any share or part which is jointly owned by a person other than a qualified person.

(3) For the purposes of this regulation—

- (a) the following individuals are qualified persons—
  - (i) British citizens;
  - (ii) British Dependent Territories citizens;
  - (iii) British overseas citizens;
  - (iv) persons who under the British Nationality Act 1981, are British subjects;
  - (v) persons who under the Hong Kong (British Nationality) Order 1986, are British Nationals (Overseas);

- (vi) citizens of the Republic of Ireland and such other countries as may be prescribed;
- (vii) nationals of an EEA State;—

Provided that where an individual otherwise qualified under this paragraph is not resident in Gibraltar he shall have appointed a representative person;

- (b) the following persons are qualified persons—
  - (i) bodies corporate or legal entities incorporated, established or registered, as the case may be,—
    - (aa) under the law of Gibraltar; or
    - (bb) under the law of an EEA State;and either—
    - (cc) having a place of business in Gibraltar; or
    - (dd) having appointed a representative person;
  - (ii) a foreign maritime entity;
- (c) a pleasure yacht shall include a ship of 24 metres or over in length which is used exclusively for pleasure and recreational purposes.

(4) Where the owner, or owners, as the case may be, of a registered pleasure yacht or of a pleasure yacht in respect of which the owner or owners have applied for registration on the Register is or are—

- (a) an individual or individuals falling within sub-regulation (3)(a) and not resident in Gibraltar; or
- (b) a person other than an individual,

the owner or owners shall appoint a registered agent in respect of that pleasure yacht:

Provided that where in respect of such a pleasure yacht—

- (a) there is more than one owner, and
- (b) all the owners fall within subregulation (3)(a), and
- (c) one of the owners is resident in Gibraltar, and
- (d) the Registrar is satisfied that the individual falling within paragraph (c) has the authority of all other owners to act as if he was the sole owner in respect of any matters falling within these Regulations and for which there is provision for service on the owner or registered agent,

the Registrar may in his discretion waive the requirement in this subregulation to appoint a registered agent in respect of that pleasure yacht.

## **Representative person.**

5.(1) Where, by virtue of the application of regulation 4(3) the appointment of a representative person in relation to a qualified person is required, the qualified person or persons shall—

- (a) appoint an individual or a body corporate, satisfying the prescribed requirements to be the representative person in relation to him or them or each of them, as the case may be;
- (b) ensure that, so long as the requirement in respect of a representative person continues, an individual or a body corporate satisfying those requirements is so appointed.

(2) The prescribed requirements referred to in subregulation (1)(a) are that the representative person—

- (a) is an individual resident in and having a place of business in Gibraltar or is a body corporate registered under the Laws of Gibraltar and having its principal place of business there; and
- (b) has as a part of his or its business acting as a representative person on behalf of qualified persons; and
- (c) where, because of activities other than being the representative person, the person appointed as representative person is required to hold a licence under any other Act, possesses such a valid licence; and

- (d) has consented to act as the representative person, on behalf of the qualified person or persons, such consent to be recorded in writing.
- (3) The qualified person—
- (a) shall provide to the Registrar the name and address of any representative person appointed in respect of him or it; and
- (b) in respect of a representative person who is for the time being appointed, shall, in the event of a change in the identity, or in the address of the representative person, notify the Registrar of the name and address of the new representative person or (as the case may be) of the new address, no later than seven days after the change occurs.
- (4) The Registrar shall enter in the Register particulars notified to him in compliance with the provisions of subregulation (3).
- (5) A representative person appointed in relation to a qualified person, shall, in the event that he ceases to comply with any of the requirements of subregulation (2), give notice in writing of that event to the Registrar and the qualified person within seven days after the occurrence thereof.
- (6) A representative person, appointed in relation to a qualified person, who intends to cease acting as the representative person in relation to that qualified person shall—
- (a) give notice in writing of his intention to the qualified person; and
- (b) lodge with the Registrar a declaration that he has given such notice,

and such notice shall be given and declaration lodged no later than seven days before the representative person intends to cease to so act.

**Duties, etc. of representative persons.**

6.(1) The representative person appointed in relation to a qualified person shall be the legal representative of the qualified person in respect of all matters concerning the qualified person in respect of the pleasure yacht of which he is the owner, or one of the owners, as a registered pleasure yacht

and in particular, but without limiting the generality of the foregoing, shall, on behalf of the qualified person—

- (a) accept service of all documents, in respect of legal proceedings against the qualified person, which may be served on the qualified person under these Regulations;
- (b) where the Registrar, by notice served on the qualified person and on the representative person, requires the qualified person to take any action or give any information concerning himself or itself in respect of the pleasure yacht or the operation of the pleasure yacht as a registered pleasure yacht of which he or it is the owner, take such action or give such information within the time specified in the notice or, if no such time is specified, within a reasonable time,

and where in these Regulations there is reference to any notice being served on the qualified person or any requirement being made of a qualified person the qualified person shall be deemed to have notice of that service or knowledge of that requirement if the representative person appointed in respect of the qualified person shall have been served or shall have had notice of the requirement.

(2) The duties prescribed by subregulation (1), shall be in addition to and shall not derogate from any other duties prescribed in relation to a representative person by or under these Regulations.

(3) Where a representative person is appointed in relation to a qualified person, subregulations (1) and (2) shall apply to that representative person until—

- (a) the appointment by the qualified person of another representative person; or
- (b) the expiration of a period of seven days after the date on which a declaration is lodged under regulation 5(6); or
- (c) the qualified person ceases to be—
  - (i) the owner of a registered pleasure yacht;
  - (ii) a qualified person;

- (d) the winding up or dissolution, as the case may be, of the body corporate being the representative person,

whichever event occurs first.

(4) Nothing in this regulation shall be construed as making the representative person appointed in relation to a qualified person liable in any legal proceedings (whether civil or criminal) for any act or omission of the qualified person.

**Notice to replace representative person.**

7. The Registrar may, if he is satisfied that the representative person for the time being appointed in relation to a qualified person—

- (a) does not satisfy the requirements specified in regulation 5(2);  
or
- (b) has failed to comply with regulation 5(6) or with any other obligation imposed on him as the representative person by these Regulations,

by written notice served on the qualified person and on the representative person, require the qualified person to replace the representative person within a period of thirty days after the date of service of the notice.

**Registered agent.**

8.(1) Where, by virtue of the application of regulation 4(4) the appointment of a registered agent in relation to a pleasure yacht is required, the owner or owners of the pleasure yacht shall—

- (a) appoint an individual or a body corporate, satisfying the prescribed requirements to be the registered agent in relation to the pleasure yacht; and
- (b) ensure that, so long as the pleasure yacht remains registered, an individual or a body corporate satisfying those requirements is so appointed.

(2) The prescribed requirements referred to in subregulation (1)(a) are that the registered agent—



- (a) is an individual resident in and having a place of business in Gibraltar or is a body corporate registered under the Laws of Gibraltar and having its principal place of business there; and
  - (b) has as a part of his or its business acting as a registered agent on behalf of pleasure yacht owners; and
  - (c) where, because of activities other than being the registered agent of the pleasure yacht, the person appointed as registered agent is required to hold a licence under any other Act, possesses such a valid licence; and
  - (d) has consented to act as registered agent, on behalf of the owner or owners, in respect of that pleasure yacht, such consent to be recorded in writing.
- (3) The owner—
- (a) shall provide to the Registrar the name and address of any registered agent appointed in respect of a pleasure yacht registered or to be registered; and
  - (b) in respect of a registered agent who is for the time being appointed, shall, in the event of a change in the identity, or in the address of the registered agent, notify the Registrar of the name and address of the new registered agent or (as the case may be) of the new address, no later than seven days after the change occurs.
- (4) The Registrar shall enter in the Register particulars notified to him in compliance with the provisions of subregulation (3).
- (5) A registered agent appointed in relation to a registered pleasure yacht, shall, in the event that he ceases to comply with any of the requirements of subregulation (2), give notice in writing of that event to the Registrar and the owner within seven days after the occurrence thereof.
- (6) A registered agent, appointed in relation to a registered pleasure yacht, who intends to cease acting as the registered agent for that pleasure yacht shall—
- (a) give notice in writing of his intention to the owner of the pleasure yacht; and

- (b) lodge with the Registrar a declaration that he has given such notice,

and such notice shall be given and declaration lodged no later than seven days before the registered agent intends to cease to so act.

**Duties, etc. of registered agent.**

9.(1) The registered agent appointed in relation to a registered pleasure yacht shall be the legal representative of the owner of the pleasure yacht in respect of all matters concerning that pleasure yacht as a registered pleasure yacht and in particular, but without limiting the generality of the foregoing, shall, on behalf of the owner—

- (a) accept service of all documents, in respect of legal proceedings against the owner of the pleasure yacht, which may be served on the owner under these Regulations;
- (b) where the Registrar, by notice served on the owner and on the registered agent, requires the owner to take any action or give any information concerning the pleasure yacht or the operation of the pleasure yacht as a registered pleasure yacht, take such action or give such information within the time specified in the notice or, if no such time is specified, within a reasonable time,

and where in these Regulations there is reference to any notice being served on the owner of a registered pleasure yacht or any requirement being made of the owner of a registered pleasure yacht the owner shall be deemed to have notice of that service or knowledge of that requirement if the registered agent appointed in respect of the pleasure yacht shall have been served or shall have had notice of the requirement.

(2) The duties prescribed by subregulation (1), shall be in addition to and shall not derogate from any other duties prescribed in relation to a registered agent by or under these Regulations.

(3) Where a registered agent is appointed in relation to a registered pleasure yacht, subregulations (1) and (2) shall apply to that person until—

- (a) the appointment by the owner of another registered agent in relation to the pleasure yacht; or
- (b) the expiration of a period of seven days after the date on which a declaration is lodged under regulation 8(6); or

- (c) the registration of the pleasure yacht is closed; or
- (d) the winding up or dissolution, as the case may be, of the body corporate being the registered agent,

whichever event occurs first.

(4) Nothing in this regulation shall be construed as making the registered agent appointed in relation to a pleasure yacht liable in any legal proceedings (whether civil or criminal) for any act or omission of the owner of the pleasure yacht.

**Notice to replace registered agent.**

10. The Registrar may, if he is satisfied that the registered agent for the time being appointed in relation to a pleasure yacht—

- (a) does not satisfy the requirements specified in regulation 8(2); or
- (b) has failed to comply with regulation 8(6) or with any other obligation imposed on him as the registered agent by these Regulations,

by written notice served on the owner and on the registered agent, require the owner to replace the registered agent within a period of thirty days after the date of service of the notice.

**Registration of property in pleasure yachts.**

11. For the purposes of registration of a pleasure yacht—

- (a) the interest in a pleasure yacht may be divided into 64 shares or parts and that number of persons may be registered as owners of a pleasure yacht or of a share in or a part of the pleasure yacht;
- (b) any number of persons may be registered as joint owners of a pleasure yacht or of any share in or any part of the pleasure yacht, but any such joint owner is not entitled to dispose of that interest in severalty; and

- (c) a body corporate, other legal entity or foreign maritime entity shall be registered as owner by its corporate or legal name.

**Pleasure yacht names.**

12.(1) A person shall not describe a registered pleasure yacht by any name other than that by which the pleasure yacht is, for the time being, registered.

(2) The owner of a registered pleasure yacht shall not change the name of the pleasure yacht or cause or permit any such change without the prior written permission of the Registrar, who shall not give such permission unless he is satisfied that all mortgagees whose interests are recorded on the Register have been notified of the proposed change of name and have consented thereto in writing.

(3) Where it is shown to the satisfaction of the Registrar that the name of the pleasure yacht has been changed without permission, he shall direct that the name be altered into that which the pleasure yacht bore before the change, and the name shall be so altered in the Register, in the Certificate of Registry and where so required on the bow and stern.

(4) The name by which it is proposed to register a pleasure yacht shall have been approved by the Registrar in accordance with regulation 13 before the name is marked on the pleasure yacht or entered in the Register.

- (5) If, in the case of any pleasure yacht which it is proposed to register—
- (a) the Registrar refuses to approve the pleasure yacht by the name by which it is proposed to register the pleasure yacht; or
  - (b) any requirements of these Regulations are not complied with;

the Registrar shall not register that pleasure yacht under the name proposed or until the regulations are complied with, as the case may be.

(6) The Registrar may, where there is a contravention of or a failure to comply with any requirement or direction under subregulation (3) in respect to a pleasure yacht, suspend the registration of the pleasure yacht until the contravention ceases or the requirement or direction is complied with, as the case may be.

**Approval of name.**

13.(1) A person who proposes to make an application for the registration of a pleasure yacht under these Regulations shall give notice in writing to the Registrar of the proposed name of the pleasure yacht.

- (2) If it appears to the Registrar that the proposed name is not—
- (a) already the name of a registered ship or registered pleasure yacht or a name reserved in accordance with subregulation (5); or
  - (b) a name so similar to that of a registered ship or registered pleasure yacht or to a name which has been reserved as to be calculated to deceive; or
  - (c) in the opinion of the Registrar, a name undesirable for the purposes of registering a pleasure yacht in Gibraltar,

on receipt of the prescribed fee, he shall authorise the proposed name, and, when all other requirements for registration have been duly complied with, the pleasure yacht shall be registered under that name and shall have the official number allocated to that pleasure yacht by the Registrar.

(3) If the proposed name is found to be already the name of a registered ship or registered pleasure yacht or a reserved name or a name so similar thereto as to be calculated to deceive or a name undesirable for the purposes of registering a pleasure yacht in Gibraltar, the Registrar may refuse—

- (a) to authorise that name for the purpose of registration of a pleasure yacht in Gibraltar; and
- (b) to register the pleasure yacht by that name; and

shall inform the applicant in writing of his decision.

(4) A person who proposes to register a pleasure yacht under these Regulations may make application in writing to the Registrar requesting the Registrar to reserve a particular name for use by the applicant.

(5) If it appears to the Registrar that the proposed reserved name is not the name of a registered ship or registered pleasure yacht or a name already reserved or a name so similar to that of a registered ship or registered pleasure yacht or to another reserved name as to be likely to deceive, and is not a name undesirable for the purposes of registering a pleasure yacht in Gibraltar, the Registrar may reserve that name for that applicant for a period

of ninety days commencing on the day on which the Registrar gives notice to the applicant that the name has been reserved, such notice to be given in writing.

(6) When a name has been reserved and the applicant registers the pleasure yacht within the period specified in subregulation (5), no other name approval under this regulation shall be required.

(7) No pleasure yacht shall be registered under these Regulations unless the name of the pleasure yacht has been approved under the provisions of this regulation.

#### **Change of name.**

14.(1) An application by an owner of a registered pleasure yacht to change the name shall be made to the Registrar—

- (a) in writing; and
- (b) accompanied by—
  - (i) evidence in writing to the satisfaction of the Registrar that each mortgagee and each holder of a related instrument whose interest is recorded on the Register, has consented to the change to the proposed name;
  - (ii) the prescribed fee.

(2) The Registrar, if—

- (a) the requirements of subregulation (1) are satisfied, and
- (b) the proposed name is not the name of a registered ship or a registered pleasure yacht or a name reserved in accordance with regulation 13(5) or is not a name so similar to the name of a registered ship or a registered pleasure yacht or a name so reserved as to be likely to deceive, and is not, in the opinion of the Registrar, a name undesirable for the purposes of registering a pleasure yacht in Gibraltar,

shall in writing inform the owner that the application has been accepted.

(3) When the Registrar has accepted an application to change the name of a registered pleasure yacht—

- (a) the Registrar shall issue to the owner a new carving and marking note; and
  - (b) the owner shall—
    - (i) change the name on the bows and stern of the pleasure yacht, where so required;
    - (ii) provide to the Registrar evidence to the satisfaction of the Registrar that the new name has been inscribed in place of the old name on the pleasure yacht;
    - (iii) present the Certificate of Registry (whether of provisional registration or full registration, as the case may be) in the old name of the pleasure yacht, to the Registrar or a person properly appointed or authorised by him.
- (4) The Registrar, on being satisfied that the owner has complied with subsection (3)(b), shall—
- (a) inscribe or cause to be inscribed the new name in place of the old name on all of the documents constituting part of, or recorded, on the Register; and
  - (b) issue or cause to be issued a new Provisional Certificate of Registry or Certificate of Registry, as the case may be, in the new name of the pleasure yacht.

**Application for registration.**

15.(1) An application for registration of a pleasure yacht shall be made in the form specified by the Registrar by the person or persons qualified to register the pleasure yacht, or by his or their representative person and the authority of any such person shall be in writing:

Provided that the Registrar may at his sole discretion accept an electronically transmitted confirmation of such person's authority if no written authorisation is produced.

(2) A person shall not be entitled to be registered as the owner of a pleasure yacht or of a share therein until he, or in the case of a body corporate, legal entity or foreign maritime entity, a person authorised on

behalf of it, has made and signed a declaration of ownership of the pleasure yacht as described in the application for registration and containing specified particulars and evidenced as prescribed.

(3) Subject to regulation 17 an application for registration on the Register shall be accompanied by—

- (a) a declaration of ownership in respect of each owner of the pleasure yacht or share therein in accordance with regulation 16;
- (b) where the registration is a first registration, the information and documents required by regulation 17;
- (c) where a mortgage or related instrument is to be recorded, the information and documents specified by regulation 50, or, if applicable, regulation 51;
- (d) the appointment in accordance with regulation 4(4) in writing of the registered agent in relation to the pleasure yacht;
- (e) the consent, in writing, in accordance with regulation 8(2)(d), of the registered agent appointed in relation to the pleasure yacht, to his appointment;
- (f) the prescribed fee or fees;
- (g) such other documents or information as may be provided for in Registrar's Instructions or as the Registrar may reasonably require.

(4) The Registrar may require in Registrar's Instructions or may otherwise require such documents or information as may enable him to be satisfied—

- (a) that the requirements of regulation 4(1) are satisfied in respect of that pleasure yacht;
- (b) as to the deletion of a pleasure yacht from any registry outside of Gibraltar;
- (c) as to the incorporation, creation or registration and good standing of an owner under the provisions of the relevant



legislation of Gibraltar or of such other jurisdiction as is provided for in regulation 4(3)(b);

- (d) the authority in respect of an owner, who is a body corporate, other legal entity or foreign maritime entity, of the person by whom the application is made to act on behalf of that body corporate, legal entity or foreign maritime entity in this application.

(5) An application for registration shall be valid for a period of one year commencing with the date on which it is made to the Registrar and where an application has not been completed by the issue of a Provisional Certificate of Registry or a full Certificate of Registry by the expiry of that period the application shall not be considered by the Registrar.

## **Declaration by and on behalf of owners.**

16. A person shall not be entitled to be registered as the owner of a pleasure yacht which is to be registered by virtue of regulation 4 or a share in or part of such pleasure yacht until that person has made and signed a declaration of entitlement to ownership of a pleasure yacht registered in Gibraltar, in the specified form, which shall include—

- (a) in the case of an individual purporting to be a qualified person resident in Gibraltar, a statement that he falls within the provisions of regulation 4(3) and is resident in Gibraltar;
- (b) in the case of a body corporate, other legal entity or foreign maritime entity, a statement that the declarant is authorised to make a declaration on behalf of the body corporate, other legal entity or foreign maritime entity;
- (c) in the case of a body corporate or other legal entity purporting to be a qualified person, a statement of the circumstances of incorporation or creation in Gibraltar or in another state as provided for in regulation 4(3)(b)(i)(bb) or of registration under—
  - (i) Part X of the Companies Act; or
  - (ii) Part XI of the Companies Act;
  - (iii) Schedule 1;

- (d) in the case of a body corporate other than a qualified person, a statement of the circumstance of incorporation or registration of the body corporate;
- (e) a statement of the number of shares in, or the fraction or percentage of, the pleasure yacht in respect of which the legal title will be vested in the declarant;
- (f) a statement that to the best of the declarant's knowledge and belief a majority interest in the pleasure yacht will upon registration be owned by one or more qualified persons;
- (g) a statement that the general description of the pleasure yacht contained in the application is correct;
- (h) a statement that the pleasure yacht is not registered in any place outside Gibraltar or, if it is so registered, that the declarant will secure deletion of the pleasure yacht from the registry in such place;
- (j) in the case of a person other than a qualified person, a statement that the declarant consents to the pleasure yacht being registered in Gibraltar;
- (k) in the case of—
  - (i) an individual purporting to be a qualified individual but not resident in Gibraltar;
  - (ii) a body corporate, other legal entity or foreign maritime entity purporting to be a qualified person and not having a place of business in Gibraltar,

a statement in writing giving the name and address of the representative person appointed in respect of that individual, body corporate, legal entity or foreign maritime entity.

**Evidence on first registration.**

17.(1) On the first registration of a pleasure yacht and subject to the provisions of subregulations (2) and (3) the following evidence shall be produced in addition to the declaration or declarations of ownership—

- (a) in the case of a pleasure yacht built in Gibraltar, a builder's certificate, being a certificate signed by the builder of the pleasure yacht, and containing a true account of the pleasure yacht type and of the tonnage of the pleasure yacht as estimated by him, and of the date and place where it was built, and of the name of the person (if any) on whose account the pleasure yacht was built, and, if there has been any sale, the bill of sale under which the pleasure yacht, or a share therein, has become vested in the applicant for registration;
- (b) in the case of a pleasure yacht built outside of Gibraltar, the same evidence as in the case of a pleasure yacht built in Gibraltar, unless the declarant who makes the declaration of ownership declares that the time and place of its building are unknown to him, or that the builder's certificate cannot be produced, in which case there shall be required only the bill of sale under which the pleasure yacht or share therein became vested in the applicant for registration;
- (c) in the case of a pleasure yacht previously registered outside of Gibraltar other than a pleasure yacht to which regulation 32 applies a declaration that the pleasure yacht is free from all maritime liens and encumbrances, except as otherwise provided in regulation 51;
- (d) such other document or evidence as is specified in Registrar's Instructions or which the Registrar is satisfied is equivalent in effect thereto or adequate to substitute therefor and such evidence may include the production of the pleasure yacht for inspection at a place and under such conditions as the Registrar may require:

Provided that paragraphs (a) and (b) shall not apply to a pleasure yacht under construction.

(2) In respect of the requirements of paragraphs (b) and (c) of subregulation (1), the Registrar may direct that those requirements be waived upon it being shown to his satisfaction that the owner has attempted to obtain such documents as are specified therein but that due to wholly exceptional and abnormal circumstances prevailing in the other country inordinate delay has occurred due to reasons beyond the control of the owner:

Provided that such waiver shall be subject to any direction as to the production of such other like document as the Registrar may make.

(3) The Registrar may in cases of civil political or military crisis, temporarily suspend or modify the requirements of this regulation and of regulation 26 in respect of permission for transfer or certificates of deletion and similar documents which would otherwise be required from such place or places of registration.

#### **Refusal of registration and removal from the Register.**

18.(1) Notwithstanding that any pleasure yacht in respect of which an application for registration has been made is entitled to be registered, the Registrar may refuse to register the pleasure yacht if—

- (a) having regard—
  - (i) to the condition of the pleasure yacht so far as relevant to its safety or to any risk of pollution;
  - (ii) to the safety, health and welfare of persons employed or engaged in any capacity on board the pleasure yacht; or
  - (iii) to the interests of Gibraltar or to international pleasure yachting,  
  
it would be inappropriate for the pleasure yacht to be registered; or
- (b) such conditions as are prescribed by regulations or Registrar's Instructions have not been complied with;
- (c) the pleasure yacht is of a class or description the registration of which is prohibited by virtue of its inclusion in Schedule 2;
- (d) the name by which it is proposed to register the pleasure yacht has not been approved under regulation 13;
- (e) prescribed fees in relation to registration or annual charges are owed to the Register.

(2) Without prejudice to the interest of a mortgagee in a pleasure yacht registered under these Regulations, the Registrar—

- (a) may, in his discretion, terminate the registration of any pleasure yacht so registered if—
  - (i) the pleasure yacht's owner or operator has intentionally or recklessly failed to comply with the laws of Gibraltar with respect to safety of life at sea;
  - (ii) the pleasure yacht's owner or operator is in breach of an obligation to the Register in respect of the payment of fees or other charges due and owing;
  - (iii) the pleasure yacht has been transferred to a registry outside of Gibraltar, or has been registered therein, without the consent of the Registrar;
  - (iv) the pleasure yacht has been lost or scrapped;
  - (v) the pleasure yacht is taken in war or hostilities as a result of which the owner has lost control over it;
  - (vi) a registered agent being required in respect of that pleasure yacht, no registered agent is appointed in respect of that pleasure yacht;
- (b) shall terminate the registration of any pleasure yacht if that pleasure yacht ceases to be eligible for registration because a majority interest in the pleasure yacht ceases to be owned by one or more qualified persons.

(3) If, for any reason it appears to the Registrar that a pleasure yacht in respect of which an application for registration has been made may not be registerable, the Registrar may, by notice served on the applicant, require that person to furnish such information as the Registrar thinks necessary for the purpose of determining whether the pleasure yacht is registerable.

(4) Where the Registrar has served a notice under subregulation (3) in respect of a pleasure yacht, he may refuse to register the pleasure yacht unless within the period of thirty days commencing on the date of service of the notice, he has become satisfied that the pleasure yacht is registerable.

(5) If for any reason it appears to the Registrar that—

- (a) a registered pleasure yacht may no longer be entitled to be registered; or

- (b) one or more of the provisions of subregulations (1) or (2) applies to that pleasure yacht; or
- (c) that any penalty imposed on the owner of a registered pleasure yacht in respect of a contravention of any statutory provision relating to the owning or operating of a pleasure yacht has remained unpaid for a period of more than ninety days (and no appeal against the penalty is pending); or
- (d) that any summons for any such contravention has been duly served on the owner of a registered pleasure yacht but that person failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than ninety days has elapsed since that time,

the Registrar may serve a notice on the owner and on any mortgagee or holder of a related instrument whose interest is recorded on the Register and on the registered agent—

- (e) that the Registrar is not satisfied that the pleasure yacht in question is entitled to be registered or (as the case may be) is satisfied of one or more of the matters referred to in paragraph (a), (b), (c) or (d); and
- (f) that the Registrar intends, after the end of the period of fourteen days beginning with the date of service of the notice, to direct that the pleasure yacht in question should cease to be registered unless he is satisfied that it would be inappropriate to do so by any representations made to him by or on behalf of the owner or mortgagee or holder of a related instrument whose interest is recorded on the Register within that period.

(6) As soon as practicable after the end of the period provided for in subregulation (5)(b) the Registrar shall accordingly terminate the pleasure yacht's registration unless he is satisfied by any such representations as are referred to in that subregulation that it would be inappropriate to do so.

(7) Where the registration of any pleasure yacht has terminated by virtue of this regulation, the Registrar may subsequently, if he is satisfied that it will be appropriate to do so, and on receipt of the prescribed fee, restore the pleasure yacht's registration.

(8) Termination of registration shall be without prejudice to the position of any mortgagee or of any holder of any related instrument whose interest is recorded on the Register.

(9) Where the Registrar has—

- (a) refused an application for registration of a pleasure yacht on the Register; or
- (b) terminated the registration of a pleasure yacht on the Register;

the owner of the pleasure yacht or the mortgagee or holder of any related instrument whose interest is recorded on the Register may within thirty days of the Registrar having given notice of the Registrar's decision appeal against that decision to the Minister and the Minister shall hear and determine that appeal within a reasonable time and in accordance with the requirements of natural justice.

(10) In the case of a decision to terminate the registration, and unless the owner or the mortgagee or holder of any related instrument whose interest is recorded on the Register shall have given notice in writing to the Registrar that no appeal will be made against the decision, the registration of the pleasure yacht on the Register shall be suspended for the period of thirty days from the day on which the Registrar gave notice of his decision and for such longer period not exceeding a further ninety days while that appeal is heard and determined.

(11) In determining an appeal under this regulation the Minister shall have regard to the provisions of these Regulations and no appeal shall be allowed if the effect would be to permit or continue a registration in contravention of the Act or these Regulations.

(12) Where, as a result of an appeal under this regulation, a registration is permitted or continued, the liability of the owner in respect of fees shall not exceed the liability which he would have had had his application for registration not been refused by the Registrar or had the Registrar not decided to terminate the registration, as the case may be.

(13) Except as is provided for in subregulation (12) the Registrar shall have no liability to an owner or a mortgagee or holder of any related instrument whose interest is recorded on the Register in respect of a refusal to register a pleasure yacht or the termination of a registration of a pleasure yacht unless that refusal or termination is shown by the owner or the

mortgagee or holder of any related instrument whose interest is recorded on the Register to have resulted from bad faith on the part of the Registrar.

#### **Tonnage and description of pleasure yachts.**

19.(1) Except in the case of a pleasure yacht under construction, where a pleasure yacht is to be registered—

- (a) a Certifying Authority shall—
  - (i) ascertain a pleasure yacht's tonnage in accordance with the tonnage instructions; and
  - (ii) issue a certificate, in the form specified by the Registrar, specifying the pleasure yacht's tonnage and build and such other particulars descriptive of the identity of the pleasure yacht as may, from time to time, be required by the Registrar;
- (b) the owner shall cause the certificate granted under subregulation (1)(a)(ii) to be delivered to the Registrar before the pleasure yacht is registered.

(2) The method of determining tonnage and matters incidental thereto shall be that determined by regulations made under section 118 of the Gibraltar Merchant Shipping (Safety etc.) Act, 1993<sup>1</sup> as applicable to a pleasure yacht.

- (3) The Registrar may by Registrar's Instructions—
  - (a) regard a pleasure yacht registered outside of Gibraltar, without being remeasured under this regulation, as deemed to be of the tonnage as specified in the certificate of registry of that pleasure yacht issued by a registry outside of Gibraltar, subject to such conditions and restrictions as may be prescribed or as the Registrar may determine, such a determination not to be inconsistent with the regulations or instructions;
  - (b) designate persons or bodies to be Certifying Authorities;
  - (c) provide for the issue of and the cancellation and delivery up of certificates and other documents appertaining to tonnage and

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survey required by this regulation or the instructions made hereunder.

(4) Whenever the tonnage of a pleasure yacht has been ascertained in accordance with these Regulations and registered, that tonnage shall thenceforth be deemed to be the tonnage of the pleasure yacht and shall be repeated in every subsequent registration of the pleasure yacht unless—

- (a) an alteration is made in the form or capacity of the pleasure yacht; or
- (b) it is discovered that the tonnage of the pleasure yacht has been incorrectly measured,

and it has been remeasured and its tonnage determined and registered according to this regulation.

(5) Subject to regulations made under section 118 of the Gibraltar Merchant Shipping (Safety etc.) Act, 1993 as applicable to the pleasure yacht and subregulation (6), the Registrar may exempt any class of pleasure yachts from all or any of the requirements of this regulation.

(6) Where the Registrar exercises his discretion under subregulation (5) to exempt a pleasure yacht from any or all of the requirements of this regulation, he may nonetheless require that at any time, either prior to the registration or during the period of registration, the production of the pleasure yacht at such place and under such conditions as he may require.

## **Marking of the pleasure yacht.**

20.(1) Except in the case of a pleasure yacht under construction, every pleasure yacht before it is registered shall be marked permanently and conspicuously to the satisfaction of the Registrar in accordance with Registrar's Instructions issued for this purpose.

(2) The Registrar may exempt any class of pleasure yachts from all or any of the requirements of this regulation and Registrar's Instructions made under subregulation (1).

(3) The marks required by this regulation shall be permanently maintained, and no alteration shall be made to them except where any of the particulars denoted by the marks are altered in the manner provided by these Regulations.

**Provisional registration.**

21.(1) Where the owner or owners of a pleasure yacht or a pleasure yacht under construction intend to apply to have that pleasure yacht registered on the Register, the Registrar or a person properly appointed for the purpose, may on the application of the owner or owners and on—

- (a) the satisfaction of the requirements preliminary to provisional registration specified by the Registrar, and
- (b) the prescribed fees having been received,

enter on the Register the following particulars relating to the pleasure yacht—

- (c) the name of the pleasure yacht;
- (d) such of the details specified in the application for registration as, in the opinion of the Registrar, are essential for registration and as are prescribed in Schedule 5;
- (e) the name and nationality of the owner or owners;
- (f) where there are more owners than one, the percentage interest of each owner in the pleasure yacht or share therein;
- (g) the name and registered address of the registered agent;
- (h) any bill of sale, other document of transmission of interest and mortgage recorded in respect of the pleasure yacht;
- (j) the name and address of the shipbuilder; and
- (k) the date of expiry of the period of provisional registration.

(2) Where the requirements of subregulation (1) have been completed and the entry on the Register of provisional registration made the Registrar shall grant a Provisional Certificate of Registry stating—

- (a) the name of the pleasure yacht;
- (b) the date and place of the purchase of the pleasure yacht and the names of its owners;

- (c) the particulars respecting the tonnage, build and description of the pleasure yacht;
- (d) the date of expiry of the period of provisional registration in accordance with regulation 22;
- (e) the name and address of the shipbuilder,

and shall issue to the owner or registered agent that Provisional Certificate of Registry containing the above particulars and as prescribed in Schedule 5.

(3) A Provisional Certificate of Registry issued under this regulation shall have the effect of a Certificate of Registry until the expiration of the prescribed period from the date of its issue or until issue of the Certificate of Registry, whichever shall be the sooner and thereupon shall cease to have effect.

(4) A Provisional Certificate of Registry shall entitle the pleasure yacht to all the privileges of a registered pleasure yacht.

### **Period of provisional registration.**

22.(1) Without prejudice to the provisions of these Regulations relating to termination or closing of a registration, and subject to subregulation (5), the provisional registration of a pleasure yacht shall be deemed to be closed upon—

- (a) the registration of the pleasure yacht under regulation 27 and the issue of the Certificate of Registry under regulation 28; or
- (b) the expiry of a period of ninety days commencing on the date of provisional registration,

whichever first occurs:

Provided that the Registrar may, where satisfied that the safety of the pleasure yacht and its operation is not compromised, and on payment of the prescribed fee, consent to an extension to the specified time period such that the period of the provisional registration shall not exceed one hundred and eighty days in total.

(2) Where the provisional registration of a pleasure yacht is deemed to be closed under subregulation (1), such closing shall be without prejudice to the rights of any mortgagee or holder of any related instrument in respect of

any mortgage or related instrument recorded on the Register in respect of the pleasure yacht.

- (3) Upon—
- (a) the expiry of the period specified by subregulation (1)(b) without extension; or
  - (b) the expiry of any period of extension granted by the Registrar in exercise of his discretion under the proviso to subregulation (1) without further extension,

and in either case where no Certificate of Registry in respect of the pleasure yacht is issued, or the issue of a Certificate of Registry in respect of a pleasure yacht, the owner or master of the pleasure yacht shall deliver the pleasure yacht's Provisional Certificate of Registry or cause such Certificate to be delivered to the Registrar—

- (a) immediately if the pleasure yacht is in Gibraltar, or
- (b) if the pleasure yacht is not in Gibraltar, as soon as practicable and in any case within a period of thirty days after the issue of the Certificate of Registry.

(4) Nothing in this regulation shall derogate from or affect the application of these Regulations to the delivery up of a Certificate of Registry.

(5) Subregulation (1)(b) shall not apply to provisional registration of a pleasure yacht under construction.

#### **Retention of documents on provisional registration.**

23. When a pleasure yacht is provisionally registered and the Provisional Certificate of Registry is issued in accordance with regulation 21, the Registrar shall retain in his possession the following documents in respect of the pleasure yacht—

- (a) the application for registration;
- (b) the declaration of ownership;
- (c) the authorisation of the registered agent and the confirmation of acceptance of the authorisation by the registered agent;

- (d) except in the case of a pleasure yacht under construction, the builder's certificate, bill of sale in favour of the owner or court order vesting title to the pleasure yacht in the owner, as the case may be;
- (e) any certificate of deletion from a registry outside of Gibraltar;
- (f) any documents required to be retained by regulation 50 or, if applicable, regulation 51;
- (g) such other documents as are provided for in Registrar's Instructions issued by the Registrar or as the Registrar may reasonably require.

## **Application of regulations in relation to pleasure yachts provisionally registered.**

24. Except as otherwise provided expressly or by necessary implication, the provisions of these Regulations shall apply to and in relation to provisional registration and pleasure yachts provisionally registered as they apply to and in relation to registration and to registered pleasure yachts.

## **Registration while a pleasure yacht is at sea.**

25. Notwithstanding any provision in these Regulations, a pleasure yacht may be registered while at sea, and a Provisional Certificate of Registry issued in such circumstances shall be valid as from the date of its issue.

## **Duty to secure termination of registration outside of Gibraltar.**

26. Except in respect of a registration of a pleasure yacht by way of transfer from the registry of a relevant country, where a pleasure yacht becomes registered at a time when it is already registered under the law of any country outside of Gibraltar, the owner of the pleasure yacht shall take all necessary steps to secure the termination of that pleasure yacht's registration under the law of that country and shall no later than sixty days after the date of the registration provide evidence to the Registrar to his satisfaction that the termination has taken place.

## **Full registration.**

27.(1) As soon as the requirements of these Regulations preliminary to registration have been complied with there shall be entered into the Register the particulars prescribed in Schedule 6 in respect of the yacht.

(2) The registration of a pleasure yacht under these Regulations, unless it is otherwise terminated according to these Regulations, shall be valid for a period of one year beginning with the date of entry on the Register in accordance with subregulation (1) and, subject to regulation 30, shall expire at the end of that period.

#### **Certificate of Registry.**

28.(1) On the completion of the registration of a pleasure yacht, and upon payment of the prescribed fees, the Registrar shall grant a Certificate of Registry valid for a period of one year from the date of entry of the registration in the Register.

(2) The Registrar shall issue to the owner or registered agent a Certificate of Registry containing the particulars in respect of that pleasure yacht entered in the Register and prescribed in Schedule 6.

#### **Documents to be retained on full registration.**

29. On completion of the registration of a pleasure yacht, the Registrar shall retain a copy of the documents prescribed for the purpose of registration under these Regulations, including—

- (a) those documents which the Registrar in the exercise of his discretion has required to be produced to him in order that he be satisfied as to any matter specified in these Regulations as one in respect of which he shall or may satisfy himself; and
- (b) the documents to be retained in accordance with regulation 23.

#### **Renewal of registration.**

30.(1) An application for renewal of registration in the form of the annual statement of particulars specified by the Registrar may be made to the Registrar together with the documents in subregulation (2) during the last month of the current period of registration.

(2) On receipt by the Registrar of—

- (a) the form prescribed in subregulation (1) properly completed by the owner or the registered agent;
- (b) a declaration from the owner that the information supplied at the time of the application for registration remains true, or in the event of a change in any of that information, a declaration containing details of the change or changes;
- (c) such other documents or information as may be provided for in Registrar's Instructions or as the Registrar may reasonably require to satisfy himself that the pleasure yacht remains a registerable pleasure yacht and has not become a prohibited pleasure yacht;
- (d) the prescribed fee;

if he is satisfied that the pleasure yacht is one to which regulation 4(1) remains applicable, and subject to subregulations (3)(b) and (5), the Registrar shall—

- (e) enter in the Register the date of renewal of registration;
- (f) issue to the owner a certification of renewal of registration valid for a period of one year from the date of expiry of the registration of the pleasure yacht on the Register.

(3) Where—

- (a) after sixty days from the date on which a registration has ceased to be valid under the provisions of regulation 28 or this regulation the Registrar has not received an application for renewal of the registration of a registered pleasure yacht; or
- (b) having received an application for renewal of registration, the Registrar has—
  - (i) determined that the pleasure yacht does not satisfy the requirements of regulation 4(1); or
  - (ii) determined that the pleasure yacht is a prohibited pleasure yacht;

(iii) exercised his discretion under regulation 18(1) or (2)(a);  
and

(c) subject to the application of subregulations (3) to (7) and (9) to (13) of regulation 18 to a situation falling within paragraph (b)(iii),

the Registrar shall terminate the registration of the pleasure yacht on the Register.

(4) Termination of registration under this regulation shall be without prejudice to the position of any mortgagee or of any holder of any related instrument whose interest in respect of the pleasure yacht is recorded on the Register.

(5) Where an owner has made a declaration of a change in any particular in accordance with subregulation (2)(b), the Registrar shall require such evidence of the change or changes of particulars so declared as may be required for the purposes of these Regulations and shall apply the requirements of these Regulations in respect of the matters so declared as changed.

#### **Registration of an altered pleasure yacht.**

31.(1) When a pleasure yacht registered under these Regulations has been so altered, changed or reconstructed as not to correspond with the particulars relating to its tonnage or description contained in the Register or where such alteration, change or reconstruction could affect the measurement of the pleasure yacht, the master or owner of the pleasure yacht shall notify the Registrar or a person properly appointed or authorised by him within thirty days after the completion of the alteration, change or reconstruction and such notification shall be accompanied by a certificate from a Certifying Authority stating the particulars of the alteration or alterations, change or reconstruction.

(2) Upon receipt of the notification and certificate provided for in subregulation (1) together with the prescribed fee—

(a) the Registrar shall issue to the owner a new carving and marking note; and

(b) the owner shall—



- (i) make such change as may be necessary in the markings required by regulation 20; and
- (ii) provide to the Registrar evidence to the satisfaction of the Registrar that the new markings has been inscribed in place of the old markings on the pleasure yacht;
- (iii) present the Certificate of Registry (whether of provisional registration or full registration, as the case may be) of the pleasure yacht recording the old particulars, to the Registrar or a person properly appointed or authorised by him.

(3) The Registrar, on being satisfied that the owner has complied with subregulation (2)(b), shall—

- (a) inscribe or cause to be inscribed the new particulars reflecting the alteration, alterations, change or reconstruction in place of the old particulars on all of the documents constituting part of, or recorded, on the Register; and
- (b) issue or cause to be issued a new Provisional Certificate of Registry or Certificate of Registry, as the case may be, recording the new particulars reflecting the alteration, alterations, change or reconstruction of the pleasure yacht.

(4) Where notice under subregulation (1) is not given within the prescribed time, the obligation to give that notice continues, notwithstanding that the prescribed period has passed, until notice is so given.

(5) In the event of a failure to comply with subregulation (1) the Registrar may suspend the registration of that pleasure yacht.

## **Application for transfer of registration.**

32.(1) An application to transfer the registration of a pleasure yacht, registered on the Register and in respect of which either a Certificate of Registry or a Provisional Certificate of Registry has been issued to the registry of a relevant country shall be made to the Registrar—

- (a) in a specified form;
- (b) be accompanied by—

- (i) the consent in writing of the owner, and if there are more owners than one, all the owners, if he or they are not the applicant or applicants, of the pleasure yacht and any share therein, or of his or their registered agents, to the application;
- (ii) the consent in writing of each and every mortgagee or holder of related instruments, whose interest is recorded on the Register, to the application;
- (iii) the Certificate of Registry or Provisional Certificate of Registry;
- (iv) the prescribed fee.

(2) An application to transfer the registration of a pleasure yacht registered on the registry of a relevant country to the Register shall be made to the Registrar—

- (a) in the specified form;
- (b) accompanied by—
  - (i) a declaration of ownership in respect of each owner of the pleasure yacht or share therein in accordance with regulation 16;
  - (ii) the appointment in writing in accordance with these Regulations of a registered agent;
  - (iii) the consent in writing of the registered agent, appointed in relation to the pleasure yacht to his appointment;
  - (iv) notice of mortgages, hypothecations and similar charges recorded on the register in the relevant country in respect of the pleasure yacht;
  - (v) the written consent of any owner, other than the applicant, of any mortgagee or mortgagees and the holders of any other recorded charges, to the transfer;
  - (vi) a certified copy of the application to the registry of the relevant country to transfer the registration to Gibraltar;

(vii) an application under regulation 13;

(viii) the prescribed fee.

(3) For the purposes of this regulation and regulations 26 and 41 a relevant country is a country so prescribed in Schedule 7.

**Closure of registration on transfer.**

33. Where the Registrar has received official confirmation from the registry of a relevant country that a certificate of registry has been issued to a pleasure yacht in respect of which an application was made under regulation 32(1) and the requirements of that regulation have been satisfied, he shall—

- (a) close the registration on the Register;
- (b) call for and retain the Certificate of Registry or Provisional Certificate of Registry, as the case may be;
- (c) inform the registry of the relevant country of the closure and pass to that registry the documents specified in paragraphs (d) and (f) of regulation 23.

**Notification of and declaration of transfer of ownership.**

34.(1) A person who ceases to be the owner of a registered pleasure yacht or a share in such a pleasure yacht shall, within thirty days of the date on which he ceased to be the owner, lodge with the Registrar written particulars of the date and the name and address of the new owner.

(2) Where notice has been given under subregulation (1) and the transferee has not, within thirty days of the receipt of that notice by the Registrar applied to be entered on the Register as the owner of the pleasure yacht or share, the Registrar may treat the pleasure yacht as no longer entitled to be registered.

**Change of ownership of pleasure yacht.**

35.(1) Subject to regulation 41, whenever a change occurs in the registered ownership of a pleasure yacht a new certificate shall be issued by the Registrar, as soon as the change of ownership has occurred and the prescribed fee has been paid.

(2) The owner or master shall, for the purpose of the issue of a new Certificate by the Registrar, deliver the Certificate of Registry to the Registrar or a person properly appointed or authorised by him.

**Notice of change in status of owner.**

36.(1) An owner who is an individual, resident in Gibraltar, shall notify the Registrar in writing of—

- (a) any change in his address;
- (b) any change in his residential status;

within seven days of the change occurring.

(2) Where a registered agent is required to be appointed in respect of a pleasure yacht, the registered agent shall, within seven days of the event, inform the Registrar in writing of any change in the status or in any material particular required under these Regulations to be notified to the Registrar in respect of an individual, body corporate, other legal entity or foreign maritime entity being an owner of that pleasure yacht.

**Transfers of pleasure yachts or shares by bill of sale.**

37.(1) A registered pleasure yacht or a share therein shall be transferred by bill of sale.

(2) The bill of sale shall contain such description of the pleasure yacht as is contained in its Certificate of Registry or some other description sufficient to identify the pleasure yacht to the satisfaction of the Registrar, and shall be executed by the transferor in the presence of, and be attested by, a witness.

(3) The bill of sale shall be in the specified form.

(4) A transferee shall not be entitled to be registered as owner of a pleasure yacht or of a share in a pleasure yacht unless a declaration of ownership provided for in regulation 16 has been lodged with the Registrar.

(5) Every bill of sale for the transfer of a registered pleasure yacht, or of a share therein, when duly executed shall forthwith be produced to the Registrar, and the Registrar shall thereupon enter in the Register the name of the transferee as owner of the pleasure yacht or share, and shall endorse on

the bill of sale the fact of that entry having been made with the day and hour thereof.

(6) The recording of bills of sale and the amending of details of ownership on the Register shall be in accordance with the provisions, *mutatis mutandis*, of subregulations (3), (4), (5), (6) and (8) of regulation 50.

### **Transmission on death or bankruptcy, etc.**

38.(1) Where the property in a registered pleasure yacht or share therein is transmitted to another qualified person on the death or bankruptcy of any registered owner, or by any lawful means not provided for elsewhere in these Regulations—

- (a) the transferee shall authenticate the transmission by making and signing a declaration (in this regulation called a declaration of transmission) identifying the pleasure yacht and giving a statement of the manner in which, and the person to whom, the property has been transmitted;
- (b) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is receivable in a court of law as proof of the title of persons claiming under a bankruptcy;
- (c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation or an official extract therefrom.

(2) The Registrar or a person properly appointed or authorised by him, on receipt of—

- (a) the declaration of transmission;
- (b) any document required by paragraphs (b) or (c) of subregulation (1);
- (c) a declaration of ownership provided for in regulation 16 in respect of the transferee,

shall enter in the Register the name of the person entitled under the transmission to be registered as owner of the pleasure yacht or share therein, the property in which has been transmitted, and, where there is more than one such person, the names of all those persons, but those persons, however

numerous, shall be considered, for the purpose of the provisions of these Regulations which relate to the number of persons entitled to be registered as owners, as one person.

(3) Where the property in a registered pleasure yacht or share therein is transmitted to another person, not being a qualified person, on the death or bankruptcy of any registered owner, or by any lawful means not provided for elsewhere in these Regulations, then the Supreme Court may, on application by or on behalf of the unqualified person, order a sale of the property so transmitted and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise as the Court directs.

(4) Where an application is made under subregulation (3), the Court may require any evidence in support of the application it thinks requisite, and may make the order on any terms and conditions it thinks just or may refuse to make an order and generally may act in the case as the justice of the case requires.

(5) Every application under subregulation (3) shall be made within four weeks after the occurrence or the event as a result of which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) as the Court shall allow.

(6) If an application which may be made under subregulation (3) is not made within the time prescribed in subregulation (5), or if the Court shall refuse an order for sale, the registration of the pleasure yacht shall be considered as closed except as far as it relates to any unsatisfied mortgages or existing mortgages or related instruments recorded thereon.

#### **Transfer of pleasure yacht or share by order of Court.**

39. Where any court of law, whether under regulation 38 or otherwise, orders the sale of any registered pleasure yacht or share therein, the order of the court shall contain a declaration vesting the right to transfer that pleasure yacht or share in some person named by the court, and that person shall thereupon be entitled to transfer the pleasure yacht or share in the same manner and to the same extent as if he were the registered owner thereof, and the Registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

#### **Power of Court to prohibit transfer.**

40. The Supreme Court may, if it thinks fit (without prejudice to the exercise of any other power of the Court) on the application of any interested person, make an order prohibiting for a time specified any dealing with a pleasure yacht or any share therein, and the Court may make the order on any terms or conditions the Court thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires, and the Registrar without having to have been made a party to the proceedings shall, on being served with an order or an official copy thereof, obey or cause to be obeyed the same.

### **Closure of registration.**

41.(1) In the event of a registered pleasure yacht being either actually or constructively lost, taken by the enemy, burnt or broken up, or the pleasure yacht or share therein being transferred to a person not being a qualified person, or there occurs a change in the status of a qualified owner such that the requirements of regulation 4 are not met, every owner of the pleasure yacht or of any share in the pleasure yacht shall, immediately on obtaining knowledge of the event, give notice thereof to the Registrar, and the Registrar shall make an entry thereof in the Register, and the registration of the pleasure yacht shall be considered as closed except so far as it relates to any unsatisfied mortgages or existing mortgages or related instruments recorded thereon.

(2) In any such case as is provided for in subregulation (1), except where the pleasure yacht's Certificate of Registry or Provisional Certificate of Registry is lost or destroyed, the owner or owners or the master of the pleasure yacht shall, as soon as practicable after the event occurs, deliver the certificate to the Registrar.

(3) When a registered pleasure yacht is to be registered elsewhere outside of Gibraltar other than on the registry of a relevant country, providing that—

- (a) any mortgage or other instrument recorded in respect of that pleasure yacht on the Register has been discharged in accordance with regulation 52 or the consent of every registered mortgagee has been obtained; and
- (b) there are no claims outstanding in favour of the Registrar,

the following shall be submitted to the Registrar or a person properly appointed or authorised by him—

- (c) a written application specifying the name of the pleasure yacht;
- (d) the reason for the proposed registration elsewhere;
- (e) the name and nationality of the proposed new owner;
- (f) the name of the country on the registry of which registration is sought;
- (g) the written consent of every registered mortgagee or the confirmation by every person whose interest as a mortgagee was registered that the mortgage or related instrument has been discharged, as the case may be; and
- (h) the prescribed fee,

and the Registrar shall, on confirmation of registration on that other registry of that pleasure yacht, close the registration in respect of that pleasure yacht.

#### **Issue of certificate of deletion.**

42. Where the registration of a pleasure yacht is, or is deemed to be, closed under these Regulations, the Registrar shall on the application of the owner and payment of the prescribed fee issue to the owner a certificate of deletion certifying that the pleasure yacht's registration is closed and the date of such closure.

#### **Unregistered pleasure yacht not recognised.**

43. A pleasure yacht which is not registered on the Register shall not be recognised in Gibraltar or for the purpose of these Regulations as a registered pleasure yacht or as being entitled to the rights and privileges accorded to registered pleasure yachts, unless otherwise permitted by law.

#### **Proper colours.**

44.(1) The proper colours of a pleasure yacht registered under the provisions of these Regulations shall be the flag specified in Schedule 3 flown in the manner specified in that Schedule and such pleasure yacht shall fly no other colours.

- (2) A registered pleasure yacht shall hoist the proper colours—



- (a) on entering or leaving any port;
- (b) on signal being made to the pleasure yacht by any ship in the service of the Government.

(3) No registered pleasure yacht shall fly any other colours than the proper colours.

(4) No registered pleasure yacht shall fly any colours purporting to be or closely resembling the proper colours which are not the proper colours.

### **Port of Registry.**

45. The port of registry of every registered pleasure yacht shall be Gibraltar.

### **Use of certificate.**

46.(1) A Certificate of Registry or a Provisional Certificate of Registry shall be used only for the lawful navigation of the pleasure yacht, and shall not be subject to detention by reason of any title, lien, charge, or interest whatever, had or claimed by any owner, mortgagee, or other person to, on or in the pleasure yacht.

(2) Any person, whether interested in the pleasure yacht or not, shall not without reasonable excuse, refuse on request to deliver up a Certificate of Registry or a Provisional Certificate of Registry when it is in his possession or under his control to—

- (a) the person entitled to custody of the certificate for the purposes of the lawful navigation of the pleasure yacht;
- (b) the Registrar or any person authorised by the Registrar;
- (c) any other person entitled by law to require such delivery.

(3) If the person so refusing is not in Gibraltar, or if he persists in not delivering up the certificate, regulation 49 shall apply as if the certificate had been lost.

### **Use of improper certificate.**

47. No person shall use or attempt to use, or cause or permit to be used for navigation, a Certificate of Registry or a Provisional Certificate of Registry not legally granted and in force in respect of a registered pleasure yacht.

**Power to grant new certificate.**

48. The Registrar, on the delivery to him of a Certificate of Registry or a Provisional Certificate of Registry together with the prescribed fee, may issue a new certificate.

**Loss of certificate.**

49. Where a Certificate of Registry or a Provisional Certificate of Registry is mislaid, lost or destroyed, the Registrar shall, on payment of the prescribed fee, issue a new certificate in place of that certificate and, pending the issue of the new certificate, the Registrar, upon receiving a declaration from the master of the pleasure yacht or some other person having knowledge of the facts of the case, stating such facts and names and descriptions of the registered owners of the pleasure yacht to the best of the declarant's knowledge and belief, may grant a Provisional Certificate of Registry containing a statement of the circumstances under which it was granted, which certificate shall be valid for a period of sixty days from the date of issue and shall be delivered up to the Registrar either

- (a) on the issue of the new certificate, or
- (b) the expiry of sixty days,

whichever is the sooner.

**Recording of mortgages and related instruments.**

50.(1) A registered pleasure yacht or a share therein may be made a security for a loan, debt or other obligation, and the mortgage creating the security or other recordable document falling within this regulation shall be in a form specified in Registrar's Instructions, or in a form as near thereto as circumstances permit, and on the production of such instrument in proper form together with the prescribed fee, the Registrar shall record it as provided for under these Regulations.

(2) Mortgages and other related instruments shall be recorded in that part of the Register referred to as the index, and, in respect of the pleasure yacht which is the subject of the mortgage or related instrument, shall form part of the entry in the Register to which the provisions of regulation 3(9) apply.

- (3) The Registrar shall—

- (a) record, in the Register, in accordance with subregulation (5), mortgages and related instruments in the order of time in which they are produced to him whether they are produced to him for that purpose—
  - (i) in Gibraltar; or
  - (ii) at an office out of Gibraltar appointed by the Registrar for that purpose and transmitted to him in Gibraltar by that office by electronic means;
- (b) inscribe on each mortgage or related instrument that it has been recorded by him, stating the date and time at which the entry was made in the Register.

(4) Inscription of the date and time of recording of a mortgage or related instrument together with relevant particulars thereof in the index kept for that purpose, and in accordance with this regulation, shall constitute complete, full and formal recording of such instrument under the provisions of these Regulations and, except in the case of pleasure yachts to which regulation 77 applies and notwithstanding the provisions of any other Act, no other recording of a mortgage or related instrument shall be required:

Provided that if a mortgage or related instrument is recorded in an office other than the office in Gibraltar of the Registrar, that mortgage or related instrument shall not be deemed to be recorded until the date and time that the memorandum of particulars referred to in subregulation (6)(b) has been received and recorded in Gibraltar in the index of the Register.

- (5) A person properly appointed or authorised by the Registrar shall, at any office appointed by the Registrar for this purpose, record a mortgage or related instrument—
- (a) in the index kept for that purpose;
  - (b) in a form specified by the Registrar;
  - (c) in the order of time in which mortgages or related instruments are produced to him for that purpose, and shall inscribe on each such mortgage or related instrument—
    - (i) that it has been so recorded by him;

- (ii) the date and time in Gibraltar and, if the mortgage or related instrument was recorded at an office outside of Gibraltar, the local date and time at which it was so recorded;
- (iii) the index and page number of the record.

(6) Where a mortgage or related instrument is recorded under the provisions of subregulation (5), the person responsible for making the entry in the index shall—

- (a) prepare a Memorandum of Particulars which shall contain—
  - (i) the relevant particulars;
  - (ii) the date and time in Gibraltar and, if the mortgage or related instrument is recorded at an office outside of Gibraltar, the local date and time of entry in the index;
- (b) cause a true copy of the Memorandum of Particulars to be transmitted by electronic means to—
  - (i) the Registrar if the recording took place at an office outside of Gibraltar;
  - (ii) every office appointed by the Registrar for the purpose of recording mortgages and related instruments;
- (c) transmit the original mortgage or related instruments to the Registrar;
- (d) at the time the mortgage or related instruments is recorded under subregulation (5), provide upon request to the mortgagee a certified copy of the entry in the index relating to that mortgage or related instrument,

and the Memorandum of Particulars provided for in paragraph (a) shall be available for public inspection on payment of the prescribed fee at the office of the Registrar in Gibraltar and at the office at which it was prepared, and each office specified in paragraph (b)(ii), upon request and during normal business hours.

(7) The Registrar shall, on receipt of the prescribed fee, endorse one or more true counterparts of a recorded mortgage or related instrument, with

the information provided for in subregulation (5)(c) in respect of that mortgage or related instrument and shall return that counterpart or counterparts to the party requesting them.

(8) Every builder's mortgage recorded in the index in respect of a pleasure yacht under construction—

- (a) binds the pleasure yacht under construction to which it relates during the period from the commencement of the building thereof until launching;
- (b) binds the pleasure yacht under construction to which it relates at and from the time of the launching of that pleasure yacht until full registration of the pleasure yacht under regulation 27; and
- (c) operates in all respects as if it were a mortgage made after the registration under regulation 27 of the pleasure yacht under construction to which it relates,

and the provisions of these Regulations with respect to recorded mortgages shall apply, with such modifications as the circumstances require, to a mortgage of a pleasure yacht under construction.

(9) Without prejudice to his other lawful rights and remedies, a mortgagee of a pleasure yacht under construction shall have the right to—

- (a) take possession of such pleasure yacht at any time before its completion, and sell the pleasure yacht in accordance with the terms and conditions of the mortgage or other recorded instrument;
- (b) obtain an order of an appropriate court or other duly constituted authority to take possession and sell the pleasure yacht under construction; or
- (c) apply to the appropriate court for an official or judicial sale of the pleasure yacht under construction.

(10) Where an owner makes an application in respect of a pleasure yacht—

- (a) provisionally registered as a pleasure yacht under construction; and

- (b) in respect of which there are mortgages or related instruments recorded in the index,

to register that pleasure yacht under regulation 27, provided that the application is accompanied by the written authorisations to such registration from each and every mortgagee and holder of related instruments, the Registrar shall register that pleasure yacht under that regulation and record those mortgages and related charges in that order of rank, priority and precedence as was accorded them in the index in relation to the provisional registration of the pleasure yacht.

(11) Subject to subregulation (10), where an owner makes an application in respect of a pleasure yacht—

- (a) provisionally registered as a pleasure yacht under construction; and
- (b) in respect of which there are mortgages or related instruments recorded in the index;

to close that registration, the provisions of regulation 41(3) shall apply and the Registrar shall not close the registration unless he is satisfied that any and all mortgages or related charges have been satisfied and that the pleasure yacht is rendered free and clear of all recorded liens and encumbrances.

(12) In this regulation and regulations 51 to 60—

“local date and time” means the official date and time in the jurisdiction which is the authorised office at which the mortgage or related instrument is recorded under subregulation (5);

“related instruments” shall include but are not limited to—

- (a) amendments to and assignments, satisfactions and discharges of mortgages;
- (b) assumption agreements;
- (c) co-ordination agreements;
- (d) subordination agreements;

“relevant particulars” means—

- (a) the amount or the amounts of the mortgage or if the mortgage is for all monies, that fact, together with interest payable;
- (b) the date of maturity, if any;
- (c) the names of the parties;
- (d) the name of the pleasure yacht;
- (e) the registered number of the pleasure yacht;
- (f) the date and time in Gibraltar;
- (g) the local date and time;
- (h) the index and page number of the entry.

**Recording of foreign instruments.**

51.(1) Notwithstanding any other provisions of these Regulations, if—

- (a) a pleasure yacht has previously been registered in a country outside of Gibraltar; and
- (b) mortgages or related instruments were recorded in respect of that pleasure yacht; and
- (c) at the time of application for registration, in addition to the other documents required to be produced on first registration, there is produced to the Registrar the written consent of every mortgagee and holder of any related instruments to the registration of the pleasure yacht on the Register,

then on the production of those mortgages and related instruments and payment of the prescribed fee they may be recorded in the order of rank, priority and precedence in which they were recorded in the register of that other country.

(2) Where the Registrar has exercised his powers under regulation 17(3), the provisions of subregulation (1) shall apply as if—

- (a) the references to registration in a country outside of Gibraltar were to registration in the country in respect of which the Registrar has exercised his powers;
- (b) the requirements as to mortgages and related instruments are satisfied by the production of a photocopy or other facsimile of the instrument certified by the mortgagee or mortgagees and holders of related instruments as true and complete:

Provided that where the mortgage or related instrument was not in the English language the photocopy or other facsimile shall be accompanied by a translation thereof into the English language, such translation to be certified in like manner as the instrument and to be recorded with the instrument.

#### **Discharge of mortgage.**

52. Where a registered mortgage of a pleasure yacht is discharged, the Registrar shall, on the production to him of the mortgage instrument and either—

- (a) a release of mortgage and receipt for the mortgage money; or
- (b) other release to his satisfaction,

duly signed and attested to the satisfaction of the Registrar, together with the prescribed fee make an entry on the Register in to the effect that the mortgage has been discharged, and on that entry being made, the estate, if any, that passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested if the mortgage had not been made.

#### **Priority of mortgages.**

53. Where there are more mortgages than one registered in respect of the same pleasure yacht or share, the mortgagees shall notwithstanding any express, implied or constructive notice, be entitled in priority between each other according to the date and time at which each mortgage is recorded in the register and not according to the dates and times of the mortgages.

#### **Mortgagees not treated as owner.**

54. Except as far as may be necessary for making a mortgaged pleasure yacht or share available as a security for the mortgage debt, the mortgagee



shall not by reason of the recorded mortgage be deemed the owner of the pleasure yacht or share, nor shall the mortgagor be deemed to have ceased to be owner thereof.

### **Mortgagee has power of sale.**

55. Every mortgagee whose interest has been recorded in the Register shall have power absolutely to dispose of the pleasure yacht or share in respect of which his interest has been so recorded, and to give effectual receipts for the purchase money:

Provided that where there are more persons than one recorded as mortgagees of the same pleasure yacht or share, a subsequent mortgagee shall not, except pursuant to an order of a court of competent jurisdiction, sell the pleasure yacht or share without the concurrence of each and every prior mortgagee.

### **Mortgagee may take title.**

56. No provision contained in these Regulations shall prevent or prohibit a mortgagee whose interest is recorded in accordance with the provisions of these Regulations, with the concurrence of all other such mortgagees whose interest has been recorded prior to the interest of that mortgagee, and subject to all claims which would have prevailed against the mortgagor at the date and time of the transfer and in respect of that pleasure yacht, from taking valid title to a pleasure yacht in which that mortgagee has a recorded interest, either alone or with others, or from conveying title to a trustee on his behalf, either with or without leave of a court of competent jurisdiction, nor shall any provision in these Regulations impair the right of such a mortgagee at public auction to bid upon, and to acquire title to, a pleasure yacht in which he has an interest.

### **Mortgage not affected by bankruptcy.**

57. A mortgage recorded under the provisions of these Regulations of a pleasure yacht or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the recording of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had the pleasure yacht or share in his possession or order or at his disposition or was reputed owner thereof, and, subject to the provisions of regulation 63, the mortgage shall be preferred to any right, claim or interest of other creditors of the bankrupt, or any trustee or assignee on their behalf as against that pleasure yacht.

**Transfer of mortgage.**

58. A mortgage recorded under the provisions of these Regulations of a pleasure yacht or share may be transferred to any person, and on the production of an instrument of transfer in the specified form and payment of the prescribed fee the Registrar or a person properly appointed or authorised by him shall record that instrument in accordance with the provisions of regulation 50.

**Transmission of interest of mortgagee on death or bankruptcy.**

59.(1) Where the interest of a mortgagee in a pleasure yacht or share is transmitted on death or bankruptcy of the mortgagee, or by any lawful means other than by a transfer provided for in these Regulations, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted, and shall be accompanied by the like evidence as is required in the case of a transmission of an interest in a pleasure yacht or share therein under regulation 38.

(2) The Registrar or a person properly appointed or authorised by him, on receipt of the declaration and production of the prescribed evidence and payment of the prescribed fee, shall record the name of the person entitled under the transmission as mortgagee of the pleasure yacht or share of which the transmission has taken place.

**Mortgagee's right to dispose of pleasure yacht.**

60. If within thirty days of the date of expiration of a Provisional Certificate of Registry the pleasure yacht has not fulfilled the requirements of registration, the mortgagee shall have power absolutely to dispose of the pleasure yacht or share in respect of which his interest is recorded in the Register, notwithstanding that the mortgagor has complied fully with any other requirements of the mortgage instrument.

**Maritime liens.**

61.(1) Without prejudice to such other claims or types of claim which may have been or may be recognised by the Supreme Court as entitled to be secured by a maritime lien, the following claims against the owner shall constitute a maritime lien on a registered pleasure yacht—

- (a) wages, repatriation costs and other sums due to the master, officers and other members of the pleasure yacht's complement in respect of their employment on the pleasure yacht;

- (b) sums due in respect to damage to dock works, pollution clean-up and prevention costs, wreck removal costs resulting from the operation of the pleasure yacht and other sums due or owing to the Registrar including fees and charges and any other fees, taxes or penalties, payable under the Act in respect of the pleasure yacht, and outstanding;
- (c) port, canal, pilotage and other waterway dues;
- (d) fees of the Admiralty Marshal, together with expenses in respect of arrest, detention, appraisalment and sale of the pleasure yacht;
- (e) costs and expenses incurred in conservation and realisation of the fund with respect to a pleasure yacht in *custodia legis*, up to the date of the order of appraisalment and sale;
- (f) mortgages recorded in accordance with the provisions of these Regulations;
- (g) claims for salvage, wreck removal, and contribution in general average;
- (h) claims against the pleasure yacht or the owner in respect of life and property salvage, or for personal injury or loss of life, whether on land or on water, resulting directly from the operation of the pleasure yacht.
- (i) claims based on tort and not capable of being based on contract, in respect of loss of or damage to property (including pollution) whether on land or on water, resulting directly from the operation of the pleasure yacht.

(2) In this regulation “owner” shall be deemed to include an operator of the registered pleasure yacht.

(3) Nothing in this regulation or in regulations 62 to 64 shall be taken to apply to any pleasure yacht which is not a registered pleasure yacht, and in the event of such pleasure yacht being subject to the jurisdiction of the Admiralty Marshal in Gibraltar, the law of Gibraltar in respect of such pleasure yacht and in relation to what shall constitute a maritime lien, priority of such liens and all other matters provided for in this regulation and regulations 62 to 64 shall be the law in effect in Gibraltar prior to the

effective date of these Regulations and thereafter established by commentary or statute other than the Act in the interpretation application thereof.

**Priority of maritime liens in general.**

62.(1) Subject to—

- (a) preference in respect of date; and
- (b) regulations 63 and 64; and
- (c) the equity and merits of a case as determined by the Supreme Court,

the order of ranking of maritime liens (as defined in regulation 61(1) with respect to a registered pleasure yacht shall be—

- (i) rights in favour of the Government and specifically created by statute, ranking *pari passu*, including those for unpaid tonnage taxes, wreck removal costs and damage to docks, harbours, piers and other property of the Government;
- (ii) rights in favour of the Registrar for unpaid fees and charges;
- (iii) the Admiralty Marshal's fees and expenses in respect of the arrest, detention, appraisal and sale of the pleasure yacht;
- (iv) costs and expenses incurred by other persons in exercising a right of sale of a pleasure yacht, including the costs of arrest and of rendering a fund available, and including costs incurred by such persons in conserving the pleasure yacht while the pleasure yacht is in *custodia legis*, up to the date of the order of appraisal and sale;
- (v) possessory liens, including but not limited to those of a pleasure yacht repaired and a salvor;
- (vi) liens in respect of salvage, including life salvage;
- (vii) liens other than those falling under paragraph (a) in respect of damage to property;

- (viii) liens in respect of crew's wages, emoluments, master's wages and other emoluments and master's disbursements;
- (ix) mortgages recorded in accordance with the provisions of regulations 50 to 60 which shall take priority amongst themselves as provided for in those regulations;
- (x) other statutory rights *in rem*, including but not limited to those for necessaries, repairs, towage, general average, pilotage, cargo damage and breach of charter party.

(2) Claims for contribution in general average shall be deemed to have accrued on the date on which the general average act was performed.

(3) Claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.

## **Possessory liens.**

63. Any lien exercisable by a builder or repairer of a pleasure yacht over a pleasure yacht or the appurtenances thereof in his possession shall take priority over all claims arising after such possession was taken but shall be postponed to those claims which were created before the time of taking possession.

## **Claims to proceeds of sale of pleasure yacht.**

64. Notwithstanding any other provision of this or any other Act, as they apply to pleasure yachts registered under these Regulations, or of these Regulations any sum awarded by a court as costs arising out of any proceedings in respect of the arrest of a pleasure yacht or the subsequent sale thereof, including such charges or expenses incurred in effecting the arrest or sale shall have priority over all claims in payment out of the proceeds of the sale or of any moneys paid into court for the release of the pleasure yacht from that arrest and, subject to such payment, the court shall determine the order of priority of all other claims, taking into account provisions of this regulation and regulations 61 to 63.

## **Power of Registrar to dispense with evidence.**

65. When under these Regulations any person is required to make a declaration on behalf of himself or any corporation, other legal entity or

foreign maritime entity, or any evidence is required to be produced to the Registrar or person properly appointed by him and it is shown to the satisfaction of the Registrar or that person that for any reasonable cause the declaration cannot be made, or that the evidence cannot be produced, the Registrar or other appointed or authorised person, on the production of such other evidence and subject to such terms as he may see fit, may dispense with the declaration or evidence.

**Furnishing information.**

66.(1) The Registrar may accept a document being a true facsimile of any properly executed document or instrument required by these Regulations to be recorded outside of Gibraltar by a person properly appointed or authorised for this purpose including but not limited to bills of sale, mortgages and related instruments, and when in proper form, such a facsimile document or instrument may be accepted for the purpose of registration or recording, in the same manner as an executed original document or instrument, and such registration or recording shall be valid in accordance with the provisions of these Regulations where the original of the electronically transmitted facsimile to be registered or recorded—

- (a) is duly acknowledged in proper form; and
- (b) is submitted to the Registrar in original form, with the required number of counterparts, within sixty days of the date of the registration or recording.

(2) Any person who for the purposes of securing registration of a pleasure yacht knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine at level 5 on the standard scale.

**Proof of attestation not required.**

67. When any document is required by these Regulations to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by calling the evidence of any person who is able to bear witness to the requisite fact without calling the attesting witness or the attesting witnesses or any of them.

**Admissibility of documents and evidence.**

68.(1) Where a document is by these Regulations declared to be admissible in evidence, such document shall, on its production from the proper custody,

be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence, and subject to all just exceptions, shall be evidence of the matter stated therein.

(2) A copy of any such document or extracts therefrom shall also be so admissible in evidence if proved to be an examined copy or extract or if it purports to be signed and certified as a true copy or extract by the person to whose custody the original document was entrusted.

### **Service of documents.**

69. Where for the purpose of these Regulations any document is to be served on any person that document may be served—

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his place of abode or at the registered office of a body corporate, legal entity or foreign maritime entity;
- (b) if the document to be served on the master of the pleasure yacht, where there is one, or on a person belonging to a pleasure yacht, by leaving the same for him on board such pleasure yacht with a person being or appearing to be in command or charge of the pleasure yacht;
- (c) if the document is to be served on the master of the pleasure yacht, where there is no master, or registered agent of the pleasure yacht, or where no such agent can be found, by affixing a copy thereof to the mast of the pleasure yacht;
- (d) in the case of any notice authorised or required to be given to the Registrar, a person properly appointed or authorised by him, a surveyor or an inspector, by delivering it to that person or by leaving it at, or by sending it by post to, the office of that person.

### **Consular authentication not required.**

70.(1) The Registrar shall not require that any document submitted in connection with the registration of a pleasure yacht, or the registration or recording of or filing of any document, or the formation of a body corporate, legal entity or foreign maritime entity owning a registered pleasure yacht, be presented to, authenticated or legalised by a Consular Official, at a locality or port outside of Gibraltar.



(2) No log book, manifest, crew articles or other document used or issued in connection with the internal economy, operation or management of a registered pleasure yacht shall be subject to presentation, review or authentication by a Consular Official.

(3) No impost, charge, fee or tax imposed against a registered pleasure yacht, or its owner or registered agent by a Consul or other official of the Government, in Gibraltar or in a locality or port outside of Gibraltar, shall be lawful unless specifically authorised by the laws and regulations of Gibraltar, and if such charge is found to be unauthorised, the said official may without limitation be subject to surcharge in the amount thereof.

#### **Limitation on time for proceedings.**

71.(1) Neither a conviction for an offence nor an order for payment of money shall be made under these Regulations in any summary proceedings instituted in Gibraltar, unless that proceeding is commenced within one year beginning with the commission of the offence or beginning with the date on which the cause of complaint arises, whichever is the earlier, or, if both or either of the parties to the proceedings happen during that time to be out of Gibraltar, unless the same is commenced, in the case of summary conviction within sixty days, and in the case of the summary order within one hundred and eighty days, beginning with the date they both first happen to arrive, or to be at one time, within Gibraltar and, in the case of summary conviction, before the expiration of three years beginning with the date on which the offence was committed.

(2) Neither a conviction for an offence nor an order for payment of money shall be made under these Regulations in any summary proceedings instituted elsewhere, unless that proceeding is commenced within one hundred and eighty days after the commission of the offence or after the cause of complaint arises, as the case may be, or, if both or either of the parties to the proceeding happen during that time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced in the case of the summary conviction within sixty days, and in the case of the summary order within one hundred and eighty days after they both first happen to arrive, and be at one time, within that jurisdiction.

#### **Provision as to jurisdiction in case of offences.**

72.(1) For the purpose of giving jurisdiction under these Regulations, every offence shall be deemed to have been committed and every cause of complaint to have arisen in Gibraltar.



(2) Where in any proceedings under these Regulations a question arises whether any pleasure yacht or person is or is not governed by the provisions of the Act or these Regulations, that pleasure yacht or person shall be deemed to be within those provisions unless the contrary is proved.

### **Immunity from civil liability.**

73. Neither the Registrar nor any person who is, or is acting as, an officer or agent of the Registrar, shall be liable to damages or otherwise for any loss occurring to any person by reason of any acts done or omitted by him in his character of Registrar, unless it is shown that the act or omission was in bad faith.

### **Form of documents.**

74.(1) The Registrar shall not be required to receive and enter in the Register any bill of sale, mortgage or other instrument which is made in any form other than that for the time being specified under these Regulations.

(2) The Registrar shall cause specified forms to be readily available to persons requiring to use the same.

### **Rectification of the Register.**

75.(1) Where it appears to any person interested that there is a material error in the Register, he may apply, in writing, to the Registrar, for rectification of the Register.

(2) Upon receipt of an application under subregulation (1), the Registrar may, if in his opinion there is a material error in the Register—

- (a) rectify the Register; or
- (b) subject to subregulation (3), require the applicant to apply to the Supreme Court for rectification of the Register.

(3) Subregulation (2)(b) shall not apply in any case where the material error is due to the negligence or wilful act or omission of any person appointed by the Registrar.

(4) Notice of an application to the Supreme Court under this regulation for rectification shall be served by the applicant on the Registrar and the Registrar may appear and be heard in the proceedings.

- (5) The Supreme Court may, in proceedings under this regulation—
- (a) make such order as it thinks fit concerning the rectification of the Register; and
  - (b) decide any question that it is necessary or expedient to decide concerning such rectification.
- (6) A copy of an order under subregulation (5) shall be served on the Registrar.
- (7) The Registrar shall, on receipt of the copy of an order served under subregulation (6) and if the order so requires, rectify the Register accordingly.
- (8) For the purposes of this regulation—
- (a) there is a material error in the Register, if there is an error of fact or substance in the Register;
  - (b) without limiting the generality of paragraph (a), there is a material error in the Register if—
    - (i) an entry is omitted from the Register;
    - (ii) an entry is made in the Register without sufficient cause;
    - (iii) an entry wrongly exists in the Register; or
    - (iv) there is an error or defect in an entry in the Register;
  - (c) the reference in paragraph (b)(i) to an entry omitted from the Register, shall be read as including a reference to a matter that is required or permitted by these Regulations to be entered or to remain in the Register, that is not entered in or is removed from the Register.
- (9) The jurisdiction of the Supreme Court under this regulation may be exercised by the Registrar of the Supreme Court.

**Offences and Penalties.**

76.(1) Where—

- (a) the scale showing the draught of water of a registered pleasure yacht is in any respect inaccurate so as to be likely to mislead, or
- (b) a registered pleasure yacht is not maintained marked as required by regulation 20,

the owner is guilty of an offence.

- (2) A person who—
  - (a) conceals, removes, alters, defaces or obliterates, or
  - (b) suffers any person under his control to conceal, remove, alter, deface or obliterate,

any marking required by regulation 20 to be maintained on a pleasure yacht, is guilty of an offence.

- (3) A failure to comply with—
  - (a) the requirements of subregulations (1), (2) and (3) of regulation 12;
  - (b) instructions made under regulation 19;
  - (c) the requirements of regulation 35(2);
  - (d) the requirements of regulation 46(2);

shall be an offence punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

- (4) Any person who
  - (a) forges or fraudulently alters any register, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or any entry or endorsement made in or on any of those documents, or
  - (b) who seeks to conceal that a pleasure yacht in respect of which an application for registration is or has been made is a prohibited pleasure yacht,

shall be guilty of an offence punishable on summary conviction by a fine at level 4 on the standard scale.

(5) Every person, who, in the case of a declaration made in the presence of or produced to a Registrar or a person properly appointed or authorised by him, or in any document or other evidence produced to such person for the purposes of these Regulations—

- (a) wilfully makes any false statement concerning the title to, or ownership of, or the interest existing in, any pleasure yacht or share in a pleasure yacht;
- (b) utters, produces or makes use of any declaration or document containing any such false statement knowing the same to be false,

shall be guilty of an offence punishable on summary conviction by a fine at level 4 on the standard scale.

(6) If any person uses or permits another person to use the proper colours of Gibraltar on board a pleasure yacht not registered in Gibraltar for the purpose of making that pleasure yacht appear to be a pleasure yacht of Gibraltar, he shall be guilty of an offence and liable on summary conviction to a fine at level 5 on the standard scale, and in any proceedings under this subregulation, the burden of proving the right to use the proper colours and assume the character of a pleasure yacht of Gibraltar shall be on the person using and assuming the same.

(7) Where no specific offence and no penalty, or no specific penalty, is provided for, a failure to comply with the requirements of these Regulations, shall be an offence by the person, other than the Registrar or a person appointed or authorised by him, so required and punishable—

- (a) in the case of an owner, registered agent or person on whom an obligation is imposed by reason of his ceasing to be an owner, or registered agent, by a fine at level 4 on the standard scale;
- (b) in the case of a master, by a fine at level 3 on the standard scale;
- (c) in the case of any other person by a fine at level 2 on the standard scale.

(8) Where an offence under these Regulations or instructions made thereunder which has been committed by a body corporate is shown to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or any person who is purporting to act in such capacity, he as well as the body corporate, shall be guilty of that offence and liable to be proceeded against accordingly.

(9) Where the affairs of a body corporate are managed by its members, subregulation (6) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## **Application of regulations to pleasure yachts registered under the Acts and the Merchant Shipping Act.**

77.(1) This regulation applies to a pleasure yacht that was, immediately before the effective date, registered in Gibraltar under the Acts or the Merchant Shipping Act.

(2) An entry or record that, immediately before the effective date, appeared in the register kept in Gibraltar under the Acts and the Merchant Shipping Act in relation to a pleasure yacht referred to in subregulation (1) shall be deemed to be an entry or record on the Register in relation to that pleasure yacht and to have been made on the date on which, and at the time when, it was made under the Acts or the Merchant Shipping Act or both. and subject to this regulation the pleasure yacht shall be deemed on and from that date to be registered under these Regulations.

(3) Any—

- (a) mortgage or other instrument relating to a pleasure yacht referred to in subregulation (1) made and recorded in accordance with the Acts or the Merchant Shipping Act or both and in force immediately before the effective date; and
- (b) endorsement, memorandum or other note made in accordance with the Acts and the Merchant Shipping Act on any such mortgage or other instrument and in force immediately before the effective date,

has effect on and after the effective date as if it had been made in accordance with the corresponding provision (if any) of these Regulations

(4) The Registrar shall enter in the Register the following particulars relating to a pleasure yacht deemed to be registered under subregulation (2)–

- (a) the name of the pleasure yacht;
- (b) such of the details of the pleasure yacht recorded in the register kept under the Acts and the Merchant Shipping Act as the Registrar considers essential for the purposes of registration;
- (c) the particulars of the pleasure yacht's origin as recorded in the register kept under the Acts and Merchant Shipping Act; and
- (d) the name, address and description of each owner and a statement of the number of shares in the pleasure yacht owned by each;
- (e) the name and registered address of the representative person appointed under section 204D of the Merchant Shipping Act.

(5) Within a period of one hundred and fifty days starting with the effective date and until such time as a Certificate of Registry is granted under this regulation in respect of a pleasure yacht to which this regulation applies, the certificate of registry granted under the Acts and Merchant Shipping Act in respect of the pleasure yacht shall for the purposes of these Regulations be treated as a Certificate of Registry granted under this regulation.

(6) Upon the entry in the Register of particulars of a pleasure yacht under this regulation, the Registrar shall retain in his possession in respect of the pleasure yacht–

- (a) any surveyor's certificate granted under the Acts and Merchant Shipping Act;
- (b) the builder's certificate, bill of sale in favour of the owner or court order vesting title to the pleasure yacht in the owner, as the case may be; and
- (c) all declarations of ownership made under the Acts and Merchant Shipping Act.

(7) Upon the entry in the Register of particulars of a pleasure yacht under subregulation (4), the Registrar shall issue to the owner of the

pleasure yacht a transcript of registry in the specified form, containing the particulars prescribed in that subregulation.

(8) Within one hundred and twenty days of the effective date the owner of a pleasure yacht to which this regulation applies shall file with the Registrar a statement of particulars in like form to the annual statement of particulars prescribed in regulation 30 containing information in respect of the particulars prescribed in subregulation (4) together with the prescribed fee in respect of such filing and on receipt thereof the Registrar shall issue a Certificate of Registry.

(9) Upon issue of a Certificate of Registry under this regulation to a pleasure yacht, the owner or master of the pleasure yacht shall deliver the certificate of registry issued under the Acts and Merchant Shipping Act in respect of the pleasure yacht, or cause such certificate to be delivered, to the Registrar—

- (a) immediately if the pleasure yacht is in Gibraltar; or
- (b) if the pleasure yacht is not in Gibraltar, as soon as practicable and in any case within a period of thirty days after the grant of the Certificate of Registry under this regulation.

(10) A representative person recorded in relation to a pleasure yacht by virtue of subregulation (4) shall be deemed to be a registered agent appointed in respect of that pleasure yacht and the relevant provisions of these Regulations shall apply as if that person had been appointed under regulation 8.

(11) In the event that the statement of particulars is not filed within the time prescribed in subregulation (8), or within such time thereafter as the Registrar may in his discretion determine in respect of any pleasure yacht, the registration of the yacht under these Regulations shall be deemed to be closed in accordance with regulation 41 from the expiry of that time, and on the application of the owner and payment of the prescribed fee the Registrar shall issue a certificate of deletion in accordance with regulation 42.

(12) Subject to subregulation (13), in addition to the provisions of this regulation the provisions of these Regulations shall apply to a pleasure yacht registered or deemed to be registered under this regulation as if the pleasure yacht had been registered under these Regulations.

(13) The provisions of those of these Regulations listed in Schedule 8 shall not apply, or shall not apply to the extent specified in respect of that regulation to pleasure yachts to which this regulation applies.

**Application of regulations to pleasure yachts which have applied to be registered under the Acts and the Merchant Shipping Act.**

78.(1) Subject to subregulation (2), where in relation to a pleasure yacht—

- (a) an application for registration of the pleasure yacht in Gibraltar under the Acts and Merchant Shipping Act was made before the effective date and, immediately before that date was not yet determined; and
- (b) the requirement of the Acts and Merchant Shipping Act preliminary to such registration have been complied with,

then—

- (c) the application shall be deemed to be an application for registration of the pleasure yacht under these Regulations;
- (d) subject to compliance with regulation 4(1)(c), the pleasure yacht shall be deemed to be registerable; and
- (e) the requirement of these Regulations preliminary to registration shall be deemed to have been complied with,

and the pleasure yacht may be registered on the Register.

(2) Nothing in subregulation (1) shall affect any liability to pay any fee or charge pursuant to these Regulations.

(3) The Registrar shall enter in the Register the following particulars relating to a pleasure yacht to which subregulation (1) applies—

- (a) the name of the pleasure yacht;
- (b) such of the details specified in any surveyor's certificate issued under the Acts and Merchant Shipping Act as the Registrar considers essential for the purposes of registration;



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## GIBRALTAR MERCHANT SHIPPING (PLEASURE YACHTS) REGULATIONS, 1997

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- (c) the particulars of the pleasure yacht's origin as stated in the declaration of ownership made under the Acts and Merchant Shipping Act;
- (d) the name, address and description of each owner and a statement of the number of shares in the pleasure yacht owned by each; and
- (e) the name and registered address of the registered agent.

(4) Subject to subregulation (5), in addition to the provisions of this regulation the provisions of these Regulations shall apply to a pleasure yacht registered or deemed to be registered under this regulation as if the pleasure yacht had been registered under these Regulations.

(5) The provisions of those of these Regulations listed in Schedule 8 shall not apply, or shall not apply to the extent specified in respect of that regulation to pleasure yachts to which this regulation applies.

## SCHEDULE 1

Regulation 2(1)

## FOREIGN MARITIME ENTITIES

**Method of registration.**

1.(1) A foreign entity whose indenture or instrument of trust, charter or articles of incorporation, agreement of partnership or other document recognised by the foreign State of its creation as the basis of its existence, directly or by force of law of the State of creation provides the power to own or operate pleasure yachts, and confers or recognises the capacity under the law of the State of creation to sue and be sued in the name of the entity or its lawful fiduciary or legal representative (the burden of proving which shall be on the applicant for registration), may apply to the Registrar to be registered as a foreign maritime entity.

(2) The application under paragraph (1) shall be made by a person authorised by the entity, and the authority of that person shall be in writing.

(3) The application under paragraph (1) shall state—

- (a) the name of the entity;
- (b) the legal character or nature of the entity;
- (c) the jurisdiction and date of its creation;
- (d) whether the entity has the power to own or operate a pleasure yacht;
- (e) whether the entity has the capacity to sue and be sued in its own name or, if not, in the name of its lawful fiduciary or legal representative;
- (f) the address of the principal place of business of the entity and, if such place is not in the jurisdiction of the creation of the entity, either the address of its place of business or the name and address of its lawful fiduciary or legal representative within the jurisdiction of the creation of the entity;
- (g) the name and address within Gibraltar of the representative person; and

(h) the date of the application.

(4) The Registrar shall, as a condition to registering the foreign maritime entity, require a copy of the document creating the legal existence of the entity to be registered.

(5) Each application and any other document required or allowed to be registered under this Schedule shall be executed in accordance with the provisions of paragraph 2.

(6) Upon the registration of the application, the Registrar shall issue a certificate certifying that the foreign maritime entity has been registered on the Register of Foreign Maritime Entities.

(7) A certificate of the registration of a foreign maritime entity issued by the Registrar is prima facie evidence of compliance with all the requirements of these Regulations in respect of registration of the foreign maritime entity.

(8) The Registrar shall refuse to register the application for registration of a foreign maritime entity unless he is satisfied that all requirements of this Schedule in respect of registration have been complied with.

## Registration of Instruments.

2.(1) Where for the purposes of paragraph 1 an instrument is required to be registered, such instrument shall be—

- (a) registered with the Registrar and the registration shall comply with the provisions of this paragraph;
- (b) in the English language, except that the name may be in another language if written in English letters or characters:

Provided that where an instrument required to be registered is not in the English language it shall be accompanied by a certified translation into the English language and that translation shall be registered;

- (c) signed by an officer of the entity or by a person authorised to sign on behalf of that entity and such signature shall appear over the printed name and title of the signatory;

Provided that any signature on any instrument required or permitted to be registered under this Schedule may be a facsimile.

(2) The original signed instrument shall be delivered to the Registrar together with prescribed fees.

(3) Wherever under any provision of this Schedule an instrument is required to be executed such requirement shall be satisfied by either—

(a) the signature, in the form required by sub-paragraph (1) (c), of the officer or person authorised to sign on behalf of the entity together with a declaration, by that person that the instrument is his act and deed or the act and deed of the entity, as the case may be, and that the facts stated in the instrument are true; or

(b) a declaration, in accordance with sub-paragraph (a) by the person, or by one of the persons, who has signed the instrument, made before and witnessed by a person authorised for that purpose in the jurisdiction in which the declaration is made, or authorised by the Registrar for that purpose, and the declaration—

(i) shall form part of the instrument, and

(ii) unless the parties to be instrument shall so require, need not be under seal.

(4) Any error on the face of the instrument or defect in the execution thereof may be remedied by registering an instrument, executed in the manner in which the original instrument was executed, specifying the error or defect to be corrected and, in the case of an error on the face of the instrument, setting forth the relevant part of the instrument in correct form and the correction so registered shall be deemed to have taken effect on the date on which the original instrument was registered.

#### **Powers granted on registration.**

3. A registered foreign maritime entity shall have the power—

(a) to own and operate pleasure yachts registered under the laws of Gibraltar;

- (b) to do all things necessary for the conduct of the business of ownership and operation of pleasure yachts so registered and, for that purpose, to have one or more offices in Gibraltar and to hold, purchase, lease, mortgage and convey real and personal property.

## Subsequent change of business address etc.

4.(1) The representative person of a foreign maritime entity shall give notice in writing to the Registrar of any change in any of the matters specified in paragraph 3 and shall provide to the Registrar details of any change which affects the legal nature, the jurisdiction or creation, the power to own or operate a pleasure yacht, or the ability to sue and be sued of the foreign maritime entity and such notice shall comply with the provisions of paragraph 2.

(2) The representative person shall at the time of giving notice in accordance with sub-paragraph (1) provide to the Registrar a certified translation into English of any documents required by that sub-paragraph and which are not in the English language.

(3) When a registered foreign maritime entity is dissolved or its authority or existence is otherwise terminated or cancelled in the jurisdiction of its creation or when such foreign maritime entity is merged into or consolidated with another foreign maritime entity, a copy of the certificate from the competent authority in the jurisdiction of creation of such foreign maritime entity, which certificate attests to the occurrence of any such event, or a copy of an order or decree of a court of such jurisdiction directing the dissolution of such foreign entity, or the termination of its existence shall be delivered to the Registrar who shall register such document.

(4) Where the Registrar has received an application under sub-paragraph (1) or a certificate under sub-paragraph (3) in respect of a foreign maritime entity which is the owner of a registered pleasure yacht, the Registrar shall give notice of that fact to any mortgagee whose interest in the pleasure yacht is recorded on the registration of that pleasure yacht and the Registrar shall not then for a period of ninety days after the service of the notice on the mortgagee deregister the entity.

(5) Where a record provided for in paragraph 6 (2) has been made on the Register of Foreign Maritime Entities in respect of an entity, the provisions of sub-paragraph (4) shall apply in respect of the giving of notice to the mortgagee whose interest has been so recorded, and the entity shall not be

deregistered for a period of ninety days from the date on which notice was served on such mortgagee by the Registrar.

(6) The Registrar, on receipt of the application to deregister or the certificate provided for in sub-paragraph (3) or, in circumstances where the provisions of sub-paragraph (4) or (5) apply, after the expiry of the ninety day period without the application having been withdrawn, shall deregister the entity and from that date—

- (a) the registration of the entity as a foreign maritime entity will cease;
- (b) the entity ceases to be a qualified person.

(7) Paragraph 5(3) shall apply to an entity the registration of which as a foreign maritime entity has ceased under this paragraph, with the substitution of deregistration for striking off.

(8) Service of notice of process in any action, suit or proceeding based upon any course of action which arose in Gibraltar during the period the foreign maritime entity was registered may after deregistration be made upon that entity by service on the Registrar.

#### **Striking off of registration of Foreign Maritime Entity.**

5.(1) Where a foreign maritime entity registered under this Schedule has not paid such annual fees as may be due, and a period of two hundred and seventy days has elapsed from the date on which such fee was due, or the entity no longer has a representative person or no longer satisfies the requirements prescribed for registration of an entity under this Schedule, the Registrar shall give notice to the entity that the name of the entity will be struck off the Register of Foreign Maritime Entities if the entity fails to remedy the default specified in the notice within the period of ninety days immediately following the date of service of the notice, and that notice together with the date of service shall be recorded in the entry in the Register of Foreign Maritime Entities in respect of that entity.

(2) If an entity on which a notice has been served in accordance with sub-paragraph (1) fails to remedy the defect in the prescribed time, then, subject to the provisions of paragraph 6, the Registrar may strike the name of the entity off the Register of Foreign Maritime Entities and if the Registrar strikes the name off, the entity ceases to be a foreign maritime entity for the purposes of these Regulations.

(3) An entity, the name of which has been struck off the Register of Foreign Maritime Entities in accordance with sub-paragraph (2) remains liable for all claims, debts, liabilities and obligations of the entity and the striking off shall not affect the liability of any of its members, directors, officers, agents or representatives in respect of the activities of the entity.

(4) An entity, the name of which has been struck off the Register of Foreign Maritime Entities, at the date of striking off ceases to be a qualified person.

### **Notice to pleasure yacht mortgagee of striking off.**

6.(1) Where an entity registered under this Schedule is the owner of a registered pleasure yacht, the Registrar shall, where the entity has failed to remedy a defect specified in the notice served on the entity under paragraph 5(1) and the Registrar proposes to strike the entity off the Register of Foreign Maritime Entities, give notice of that intention to any mortgagees whose interest in the pleasure yacht is recorded on the registration of that pleasure yacht, and the Registrar shall not then for a period of ninety days after the service of such notice on the mortgagee strike the name of the entity off the Register of Foreign Maritime Entities.

(2) Where an entity registered under this Schedule is the owner of a pleasure yacht registered in a registry outside of Gibraltar, any mortgagee of such pleasure yacht may, upon the payment of the prescribed fee, cause a record to be made on the entry in the Register of Foreign Maritime Entities in respect of that entity of the mortgagee's interest in the pleasure yacht, and such record shall include the name of the mortgagee, the name and place of registration of the pleasure yacht and the name and address of a representative of the mortgagee to whom notice may be given of an intention to strike the entity off the Register of Foreign Maritime Entities.

(3) Where a record provided for in sub-paragraph (2) has been made on the Register of Foreign Maritime Entities in respect of an entity, the provisions of sub-paragraph (1) shall apply in respect of the giving of notice to the mortgagee whose interest has been so recorded and the entity shall not be struck off the Register of Foreign Maritime Entities for a period of ninety days from the date on which notice was served on such mortgagee by the Registrar.

(4) For the purposes of this paragraph and paragraph 7, notice shall be presumed to have been served on the date on which such notice was sent by post to the address—

- (a) in the case of the mortgagee of a pleasure yacht registered in Gibraltar, shown as the address of the mortgagee in the record of the mortgage recorded in the entry on the register in respect of that pleasure yacht;
- (b) in the case of the mortgagee of a pleasure yacht registered on a registry outside of Gibraltar, shown in the record on the entry in the Register of Foreign Maritime Entities in respect of the entity.

**Deregistration of Foreign Maritime Entity.**

7.(1) A foreign maritime entity registered under this Schedule may deregister by lodging with the Registrar an application which shall specify—

- (a) the name of the entity and the jurisdiction of its creation;
- (b) the date it was registered as a foreign maritime entity in Gibraltar;
- (c) a declaration that—
  - (i) the entity surrenders the powers of a foreign maritime entity;
  - (ii) the entity will, with effect from the date of deregistration, revoke the authority of its representative person in Gibraltar to accept service of notice of process and consents that such service in any action, suit, or proceeding based upon any cause of action arising in Gibraltar during the period of entry was registered in Gibraltar may thereafter be made on it by service on the Registrar;
  - (iii) a postal address to which the Registrar may send by post a copy of any notice of process in respect of the entity that may be served on him.

(2) The application under sub-paragraph (1) shall be made in the specified form and shall be executed in accordance with paragraph 2, and if the entity is in the hands of a receiver, liquidator or trustee in bankruptcy, it may be executed on behalf of the entity by such receiver, liquidator or trustee.



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### **Register and index.**

8.(1) The Registrar shall keep a register of Foreign Maritime Entities registered under this Schedule and the provisions of regulation 3(10) and (11) shall apply *mutatis mutandis* to that register.

(2) The Registrar shall keep in alphabetical form an index of the names of foreign maritime entities registered under this Schedule and such index shall be in addition to the register kept by virtue of sub-paragraph (1).

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**SCHEDULE 2**

Regulation 2(1)

**PROHIBITED PLEASURE YACHTS**

1. Vessels falling within the description of pleasure yachts which are used or intended to be used principally for the purpose of fishing for commercial gain.
2. Vessels falling within the description of pleasure yachts the registration of which in Gibraltar is prohibited by any other Act.

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### **SCHEDULE 3**

Regulations 2(1) and 4(1)

### **PROPER COLOURS**

The proper colours of a registered pleasure yacht shall be the Red Ensign with the Armorial Bearings of Gibraltar except where a registered pleasure yacht is entitled to fly the Blue Ensign, in which case in respect of such yacht the proper colours shall be the Blue Ensign defaced as required by the Royal Warrant by which that entitlement is authorised.

## SCHEDULE 4

Regulation 3(12)

## FEES AND CHARGES

The several fees and charges prescribed in this Schedule shall be charged and be payable in respect of the matters therein prescribed and unless the fees and charges so prescribed and any fees and charges outstanding to the Register shall have been paid the Registrar shall not be required to provide any service under these regulations to a registered agent from whom payment is outstanding or in connection with a ship in respect of which fees, charges or taxes are outstanding.

Fees and charges payable and paid shall not be refundable.

|  | £      | EURO |
|--|--------|------|
| 1. Application for registration of a pleasure yacht (regulations 15 and 27)  | 225.00 | 360  |
| 2. Application for provisional registration (regulations 15 and 21)  | 175.00 | 280  |
| 3. Registration following provisional registration (regulations 15, 21 and 27)   | 100.00 | 160  |
| 4. Application for change of name of pleasure yacht (regulation 14)  | 50.00  | 80   |
| 5. Application for annual renewal of Certificate of Registry including filing of Annual Statement of Particulars (regulation 30) | 25.00  | 40   |
| 6. Application for extension of provisional registration (regulation 22)   | 50.00  | 80   |
| 7. Application for transfer of registration from or to a registry in a relevant country (regulation 32)                          | 225.00 | 360  |
| 8. Issue of a Certificate of Deletion (regulation 42)  | 25.00  | 40   |

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|     |   |        |     |
|-----|---|--------|-----|
| 9.  | Issue of a Duplicate Certificate (regulation 48)  | 25.00  | 40  |
| 10. | Transfer of ownership, including issue of new Certificate (regulations 34 - 38)   | 75.00  | 120 |
| 11. | Recording of a mortgage or related instrument and/or the Discharge thereof (regulations 50, 51 and 52)                              | 75.00  | 120 |
| 12. | Endorsement of a counterpart of recorded mortgage or related instrument (regulation 50(7))  | 25.00  | 40  |
| 13. | Transfer of mortgage (regulations 58 and 59)  | 75.00  | 120 |
| 14. | Transcript of Register (regulation 3)   | 25.00  | 40  |
| 15. | Inspection of Register including Memorandum of Particulars (regulations 3 and 50)   | 10.00  | 16  |
| 16. | Registration of change of any registered particulars recorded in the Register (including new Certificate) (regulations 5, 8 and 31) | 25.00  | 40  |
| 17. | Registration of Foreign Maritime Entity (Schedule 1)  | 150.00 | 240 |
| 18. | Signal letters when not submitted on first registration (regulation 3)  | 25.00  | 40  |
| 19. | Restoration of registration (regulation 18(7))  | 50.00  | 80  |

## SCHEDULE 5

Regulation 21

ENTRY OF PROVISIONAL REGISTRATION AND PROVISIONAL  
CERTIFICATE OF REGISTRY

Particulars to be recorded on the Register in respect of a provisional registration.

(Items marked \* to be included in a Provisional Certificate of Registry)

1. *Pleasure yacht's name\* or, in the case of a pleasure yacht under construction proposed name*
2. *Pleasure yacht's Official Number\**
3. *Type of pleasure yacht and material of construction\**
4. *Approximate dimensions of pleasure yacht\**
5. *Particulars of engines and number of engines\* (in the case of a pleasure yacht under construction, if known)*
6. *Hull number\* or, in the case of a pleasure yacht under construction, yachtbuilder's Newbuild No or Yard No.*
7. *Approximate gross and net tonnage\**
8. *Estimated maximum speed\**
9. *Country of build\**
10. *Year of build\* or, in case of a pleasure yacht under construction, date of keel laying*
11. *Name and address of pleasure yacht builder\**
12. *Owner's(s') name\*, address\*, nationality\* and occupation*
13. *Number of shares held in pleasure yacht by each owner\**
14. *Date and place of purchase of pleasure yacht by owner(s)\* (except in the case of pleasure yacht under construction)*
15. *Number of Provisional Certificate of Registry\**
16. *Date registered\**
17. *Date of Issue of Certificate of Provisional Registry\**
18. *Date of expiration of Certificate of Provisional Registry\**
19. *Details of representative person and registered agent (if any, in the case of pleasure yacht under construction)*

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20. *Details of bill(s) of sale or, in the case of a pleasure yacht under construction, yacht building contract recorded*
21. *Mortgages and related instruments recorded under regulations 50 and 51*

## SCHEDULE 6

Regulations 27 and 28

## ENTRY OF REGISTRATION AND CERTIFICATE OF REGISTRY

Particulars to be recorded on the Register in respect of a registration.  
(Items marked \* to be included in the Certificate of Registry, annual stamp to be affixed in space provided)

1. *Pleasure yacht's name\**
2. *Pleasure yacht's Official Number\**
3. *Signal letters\*/Radio Call Sign\**
4. *Type of pleasure yacht and material of construction\**
5. *Dimensions of pleasure yacht\**
6. *Particulars of engines and number of engines\**
7. *Hull number\**
8. *Gross and net tonnage\**
9. *Estimated maximum speed\**
10. *Country of build\**
11. *Year of build\**
12. *Name and address of pleasure yacht builder\**
13. *Owner's(s') name\*, address\*, nationality\* and occupation*
14. *Number of shares held in pleasure yacht by each owner\**
15. *Date and place of purchase of pleasure yacht by owner(s)\**
16. *Number of Certificate of Registry\**
17. *Date registered\**
18. *Date of Issue of Certificate of Registry\**
19. *Date of expiration or date of expiration of annual endorsement\**
20. *Details of representative person and registered agent*
21. *Bill(s) of Sale recorded in respect of the pleasure yacht*
22. *Mortgages and related instruments recorded under regulations 50 and 51*



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### SCHEDULE 7

Regulation 32(3)

#### RELEVANT COUNTRIES

1. Anguilla
2. Bermuda
3. British Virgin Islands
4. Caymen Islands
5. Falkland Islands
6. Guernsey
7. Isle of Man
8. Jersey
9. Montserrat
10. Turks and Caicos
11. St. Helena
12. United Kingdom

**SCHEDULE 8**

Regulations 77 and 78

**PROVISIONS NOT APPLICABLE TO TRANSITIONAL PLEASURE  
YACHTS**

The following regulations shall not apply to the extent specified in respect of each regulation to pleasure yachts to which regulations 77 and 78 apply—

- (a) regulations 4(1)(c), 8, 9, 10:

Provided that

- (i) the representative person appointed in accordance with section 204D of the Merchant Shipping Act in respect of any pleasure yacht shall be deemed to be the registered agent and these Regulations shall apply to such person as if he were the registered agent of that pleasure yacht appointed in accordance with these Regulations; and
- (ii) these Regulations shall apply to a pleasure yacht the registration of which has not been completed on the effective date;
- (b) regulations 13, 15, 16, 17, 18(1), (3) and (4), 19, 20, 21, 23, 25, 26, 27, 28, 29 and 51;
- (c) regulations 61 to 64 inclusive in respect of matters arising prior to the effective date.