

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4673 GIBRALTAR Thursday 12th March 2020

LEGAL NOTICE NO. 101 OF 2020

GIBRALTAR MERCHANT SHIPPING (SAFETY, ETC.) ACT, 1993

GIBRALTAR MERCHANT SHIPPING (SAFETY RULES AND STANDARDS FOR PASSENGERS SHIPS ON DOMESTIC VOYAGES) (AMENDMENT) REGULATIONS 2020

In exercise of the powers conferred on it by sections 59, 62, 63 and 118 of the Gibraltar Merchant Shipping (Safety, etc.) Act, 1993 and all other enabling powers, and for the purpose of transposing into the law of Gibraltar Directive (EU) 2017/2108/ of the European Parliament and of the Council of 15 November 2017 amending Directive 2009/45/EC on safety rules and standards for passenger ships, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Safety Rules and Standards for Passengers Ships on Domestic Voyages) (Amendment) Regulations 2020 and come into operation on the day of publication.

Amendments to regulation 2.

2. Regulation 2 of the Gibraltar Merchant Shipping (Safety Rules and Standards for Passengers Ships on Domestic Voyages) Regulations 2011 (the principal Regulations) is amended –

(a) by substituting the following definition for the definition of “bow height”-

“bow height” means the bow height defined in Regulation 39 of the 1966 International Convention on Load Lines;”;

(b) by inserting the following definition after the definition of “Dynamically Supported Craft Code” or DSC Code”-

““equivalent material” means aluminium alloy or any other non-combustible material which, by itself or due to the insulation provided, maintains structural and integrity properties equivalent to steel at the end of the applicable exposure to the standard fire test;”;

(c) by substituting the following definition for the definition of “International Convention”-

““International Conventions” means the following conventions, including their Protocols and amendments thereto, in their up-to-date versions:

(a) the 1974 International Convention for the Safety of Life at Sea (the 1974 SOLAS Convention); and

(b) the 1966 International Convention on Load Lines;”;

(d) by substituting the following definition for the definition of “Intact Stability Code”-

““Intact Stability Code” means the “Code on Intact Stability for all types of ships covered by IMO Instruments” contained in IMO Assembly Resolution A.749(18) of 4 November 1993, or the “International Code on Intact Stability, 2008” contained in IMO Resolution MSC.267(85) of 4 December 2008, in their up-to-date versions;”;

(e) by substituting the following paragraph for paragraph (b) in the definition of “high speed passenger craft”-

“(b) their maximum speed, as defined in Regulation 1.4.30 of the 1994 High Speed Craft Code and \Regulation 1.4.38 of the 2000 High Speed Craft Code, is less than 20 knots;”;

(f) by inserting the following definitions after the definition of “new ship”-

““offshore service ship” means a ship used to transport and accommodate industrial personnel who do not conduct work on board that is essential to the business of the ship;

“offshore service craft” means a craft used to transport and accommodate industrial personnel who do not conduct work on board that is essential to the business of the craft;”;

(g) by deleting the definition of “place of refuge”;

(h) by inserting the following definition after the definition of “persons with reduced mobility”-

““pleasure yacht or pleasure craft” means a vessel not engaged in trade, regardless of the means of propulsion;”;

(i) by inserting the following definition after the definition of “recognised organisation”-

““repairs, alterations and modifications of a major character” means any of the following-

(a) any change that substantially alters the dimensions of a ship, such as lengthening by adding new midbody

(b) any change that substantially alters the passenger-carrying capacity of a ship, such as converting the vehicle deck to passenger accommodation,

(c) any change that substantially increases a ship's service life, such as renewing the passenger accommodation on one entire deck,

(d) any conversion of any type of ship into a passenger ship;”;

(j) by inserting the following definition after the definition of “ro-ro passenger ship”-

““sailing ship” means a ship propelled by sails, even if fitted with mechanical propulsion for auxiliary and emergency purposes;”;

(k) by substituting the following definition for the definition of “sea area”-

““sea area” means any sea area or sea route established under regulation 5;”;

(l) by inserting the following definitions after the definition of “port”-

““port area” means the area described in paragraph (a) of the Schedule to the Port Act;

“port State” means a Member State to or from whose port or ports a ship or craft flying a flag other than the flag of that Member State is carrying out domestic voyages;”;

(m) by substituting a semi-colon for the “full-stop” at the end of the definition of “SOLAS Convention”;

(n) by inserting the following definitions after the definition of “SOLAS Convention”-

““standard fire test” means a test in which specimens of the relevant bulkheads or decks are exposed in a test furnace to temperatures corresponding approximately to the standard time-temperature curve in accordance with the test method specified in the 2010 International Code for Application of Fire Test Procedures, contained in IMO Resolution MSC.307(88) of 3 December 2010, in its up-to-date version;

“traditional ship” means any kind of historical passenger ship designed before 1965 and their replicas built predominantly with the original materials, including those designed to encourage and promote traditional skills and seamanship, that together serve as living cultural monuments, operated according to traditional principles of seamanship and technique;

“tender” means a ship-carried boat used for transferring more than 12 passengers from a stationary passenger ship to shore and back.”.

Substitution of regulation 3.

3. The principal Regulations are amended by substituting the following regulation for regulation 3–

“Application of these Regulations.

- 3.(1) These Regulations apply to the following passenger ships and craft, regardless of their flag, when engaged on domestic voyages–
- (a) new and existing passenger ships of 24 metres in length and above; and
 - (b) high-speed passenger craft.
- (2) The Administration shall, in its capacity as port State, ensure that passenger ships and high-speed passenger craft, flying the flag of a State which is not a Member State, fully comply with the requirements of these Regulations, before they may be engaged on domestic voyages in Gibraltar.
- (3) These Regulations do not apply to–
- (a) passenger ships which are:
 - (i) ships of war and troopships;
 - (ii) sailing ships;
 - (iii) ships not propelled by mechanical means;
 - (iv) vessels constructed in material other than steel or equivalent and not covered by the standards concerning High Speed Craft (Resolution MSC 36(63) or MSC.97(73)) or Dynamically Supported Craft (Resolution A.373(X));
 - (v) wooden ships of primitive build;
 - (vi) traditional ships;
 - (vii) pleasure yachts;
 - (viii) ships exclusively engaged in port areas;
 - (ix) offshore service ships; or
 - (x) tenders; and

- (b) high-speed passenger craft which are:
 - (i) craft of war and troopcraft;
 - (ii) pleasure craft;
 - (iii) craft exclusively engaged in port areas; or
 - (iv) offshore service craft.”.

Amendment of regulation 4.

4. Regulation 4 of the principal Regulations is amended-

- (a) by substituting the following paragraph for paragraphs (c) and (d) in subregulation (1)-

“(c) Class C.”; and

- (b) by substituting the following subregulation for subregulation (2) –

“(2) In these Regulations, passenger ships are divided in the following classes according to the seas area in which they may operate–

(a) “Class A” means a passenger ship engaged on domestic voyages in Areas A, B and C;

(b) “Class B” means a passenger ship engaged on domestic voyages in Areas B and C; and

(c) “Class C” means a passenger ship engaged on domestic voyages in Areas C.”.

Amendment of regulation 5.

5. Regulation 5(1) of the principal Regulations is amended by substituting the following paragraphs for paragraph (a)-

“(a) establish, and update when necessary, a list of the sea areas within BGTW;

(aa) determine the inner border of the sea areas closest to the line of the coast;”.

Amendment of regulation 7.

6. Regulation 7 of the principal Regulations is amended by substituting the following subregulation for subregulation (4)-

“(4) Marine equipment complying with the requirements of the Gibraltar Merchant Shipping (Marine Equipment) Regulations 2016 shall be deemed to be in conformity with the requirements of these Regulations.”.

Amendment to regulation 9.

7. Regulation 9 of the principal Regulations is amended-

- (a) by deleting subregulation (2); and
- (b) by deleting the words “and (2)” in subregulation (3).

Amendment to regulation 10.

8. Regulation 10 of the principal Regulations is amended in subregulation (5) by substituting-

- (a) the word “agreement” for the word “concurrence”;
- (b) the words “port State” for the words “flag State”; and
- (c) the following subregulations for subregulations (6), (7) and (8)-

“(6) Where the Administration is of the view that the rules required by the Administration of the port State as referred to in subregulation (5) are unreasonable, it shall immediately notify the Commission thereof.

(7) With regard to new and existing ships, repairs, alterations and modifications of a major character and outfitting related thereto shall comply with the requirements for new ships set out in regulation 8 and alterations made to a ship which are intended solely to achieve a higher survivability standard shall not be regarded as modifications of a major character.

(8) Ships built in an equivalent material before 20 December 2017 shall comply with requirements of these Regulations by 22 December 2025.”.

Amendment to regulation 11.

9. Regulation 11 of the principal Regulations is amended in subregulation (1)(c) by inserting the words “in IMO Resolution A.373(10), in its up-to-date version” after the words “(DSC Code)”.

Substitution of regulation 12.

10. The principal Regulations are amended by substituting the following regulation for regulation 12-

“Stability requirements and phasing out of ro-ro passenger ships.

12. The Administration shall ensure that ro-ro passenger ships of Class C, the keels of which were laid, or which were at a similar stage of construction on or after 1 October 2004, and all ro-ro passenger ships of Classes A and B comply with regulations 6, 7, 8, and 9 of the Gibraltar Merchant Shipping (Stability Requirements for Ro-Ro Passenger Ships) Regulations 2005.”.

Amendment to regulation 19.

11. Regulation 19 of the principal Regulations is amended-

- (a) in paragraph (a) by substituting the words “an initial survey” for the words “ a survey”; and
- (b) by deleting subregulation (2).

Amendment to regulation 20.

12. Regulation 20 of the principal Regulations is amended by substituting the following subregulations for subregulation (1)-

- “(1) All new and existing passenger ships fulfilling the requirements of these Regulations shall be provided with a Passenger Ship Safety Certificate in compliance with these Regulations and the certificate shall be in the format set out in Schedule 2.
- (1A) The certificate referred to in subregulation (1) shall be issued by the Administration after an initial survey, as referred to in paragraph (a) of regulation 19, has been carried out.”.

Amendment to regulation 21.

13. Regulation 21 of the principal Regulations is amended-

- (a) in subregulation (3), by substituting-
 - (i) the words “port State” for the words “host State” after the words “voyages in a”;
 - (ii) the words “port State” for the words “host State” after the words “shall concur with the”; and
- (b) by substituting the following subregulation for subregulation (4)-
 - “(4) Additional safety measures, equivalences and exemptions granted to ships or craft under and in accordance with regulation 16 shall be noted on the ship’s or the craft’s certificate.”.

Amendment to regulation 22.

14. Regulation 22 of the principal Regulations is amended in line 1 by substituting the words “in the capacity as port State” for the words “as host State”.

Dated: 12th March 2020.

G H LICUDI QC,
Minister with responsibility for the Port and Shipping,
for the Government.

EXPLANATORY MEMORANDUM

These Regulations amend the Gibraltar Merchant Shipping (Safety Rules and Standards for Passengers Ships on Domestic Voyages) Regulations 2011 for the purposes of transposing into the law of Gibraltar the Directive (EU) 2017/2108/ of the European Parliament and of the Council of 15 November 2017 amending Directive 2009/45/EC on safety rules and standards for passenger ships.

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