

The Small Fishing Vessels (Safety) (Bailiwick of Guernsey)

Regulations, 2007

No. 6

<i>Made by the Public Services Department</i>	<i>13 September, 2007</i>
<i>Made by the General Services Committee</i>	<i>17th December, 2007</i>
<i>Made by the Harbour Committee</i>	<i>17th January, 2008</i>
<i>Coming into operation</i>	<i>1st March, 2008</i>

THE STATES OF GUERNSEY PUBLIC SERVICES DEPARTMENT, THE STATES OF ALDERNEY GENERAL SERVICES COMMITTEE, and the CHIEF PLEAS OF SARK HARBOUR COMMITTEE, in exercise of the powers conferred on them by sections 80, 81 and 289 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^a and all other powers enabling them in that behalf, hereby order:-

Interpretation.

1. (1) In these Regulations, unless the context otherwise requires -

"Department" means the States of Guernsey Public Services Department;

"Code of Practice" means the "Code of Practice for the Safety of Small Fishing Vessels" published by the Department;

^a Order in Council No. VIII of 2004.

"EEA Agreement" 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;

"EEA State" means a State which is a contracting party to the EEA Agreement;

"fixed permanent structure" includes any portion of the hull which is capable of being detached, but which is fixed in place during the normal operation of the vessel (but does not include functional arrangements such as safety rails, bowsprits, pulpits, stemhead fittings, rudders, steering gear, outdrives, outboard motors, propulsion machinery, diving platforms, rubbing strips and fenders, other than where such functional arrangements are designed to replace any part of the hull that has been removed);

"length overall" means the distance between the foreside of the foremost fixed permanent structure and the afterside of the aftermost fixed permanent structure;

"Guernsey fishing vessel" means a vessel –

- (a) registered in Guernsey, or
- (b) which is not registered under the law of any country but is wholly owned by persons each of whom is a British citizen, a British Dependent Territories citizen or a British Overseas citizen who is ordinarily resident in any part of Guernsey, or a body corporate which is established under the law of any part of Guernsey and has its principal place of business in Guernsey,

and is used for, or in connection with fishing for sea fish other than a vessel used (or intended to be used) for fishing otherwise than for profit; and for the purposes of this definition sea fish includes shellfish (including crustaceans and molluscs of any kind), salmon (including any fish of the salmon species) and any species of trout which migrates to and from the sea.

"voyage" includes an excursion, and shall be taken to commence when a vessel leaves its berth or anchorage at a port.

(2) Unless the context otherwise requires, expressions used in these Regulations that are not defined in subsection (1) shall where they are defined in the Merchant Shipping (Bailiwick of Guernsey) Law, 2002, have the same meaning as in that Law.

Application of Regulations

2. These Regulations apply to Guernsey fishing vessels of less than 15 metres length overall, wherever they may be.

Code of Practice

3. The Department shall draw up a Code of Practice which shall be freely available to the public, the purpose of which is to ensure the safety of fishing vessels of less than 15 metres length overall.

Prohibition on proceeding on any voyage unless Code of Practice complied with

4. Subject to regulation 5, a fishing vessel shall not proceed on any voyage unless the vessel complies with the requirements of the Code of Practice.

Equivalent provisions

5. (1) Where the Code of Practice requires that a particular fitting, material, appliance or apparatus or type thereof shall be fitted or carried in a vessel, or that any particular provision shall be made, the Department shall permit any other fitting, material, appliance or apparatus or type thereof to be fitted or carried or any other provision to be made in that vessel if it is satisfied by trial thereof or otherwise that such other fitting, material, appliance or apparatus or type thereof or provision is at least as effective as that required by the Code of Practice.

(2) For the purposes of the Code of Practice, the results of a verification or test shall be accepted if the verification or test is carried out —

- (a) in accordance with the Code of Practice or with a Code of Practice, specification or technical description of an EEA State offering equivalent levels of safety, suitability and fitness for the purpose; and
- (b) by a body or laboratory of an EEA State offering suitable and satisfactory guarantees of technical and professional competence and independence.

Penalties

6. (1) If a Guernsey fishing vessel proceeds or attempts to proceed on any voyage, in contravention of regulation 4, then the owner and the skipper shall each be guilty of an offence, punishable only on summary conviction by a maximum fine not exceeding level 5 on the uniform scale.

(2) It shall be a defence for a person charged under these Regulations to show that he took all reasonable precautions to avoid the commission of the offence.

Detention

7. In any case where a Guernsey fishing vessel does not comply with the Code of Practice, or regulation 5, the vessel shall be liable to be detained and section 270 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (which relates to the detention of a ship) shall have effect in relation to the vessel.

Suspension of application of the Fishing Vessels (Safety Provisions) (Guernsey) Order 1990

8. The application of the Fishing Vessels (Safety Provisions) (Guernsey) Order 1990^b shall be suspended in relation to Guernsey fishing vessels of less than 15 metres in length overall.

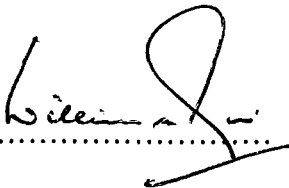
Citation.

9. These Regulations may be cited as the Small Fishing Vessels (Safety) (Bailiwick of Guernsey) Regulations, 2007.

Commencement

10. These Regulations shall come into force on 1 March 2008.

Dated this 24th day of January 2008.



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W. M. BELL

Minister

For and on behalf of the Public Services Department.

^b S.I 1990/2148 (registered on 21st January 1991)

Dated this 17th day of December, 2007.

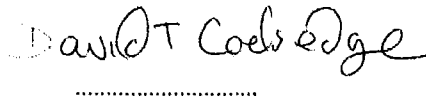
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W. WALDEN

Chairman

For and on behalf of the General Services Committee
of the States of Alderney.

Dated this 17th day of January, 2008.

A handwritten signature in dark ink, appearing to read 'David T. Cocksedg', written over a dotted horizontal line.

D. T. COCKSEGE

President

For and on behalf of the Harbour Committee and Sark Fisheries Committee
of the Chief Pleas of Sark.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for fishing vessels of less than 15 metres in length overall to comply with the requirements of the "Code of Practice for the Safety of Small Fishing Vessels" published by the Public Services Department. They also provide for the suspension of application of the Fishing Vessels (Safety Provisions) (Guernsey) Order 1990 so that this instrument no longer applies to Guernsey fishing vessels of less than 15 metres in length (regulation 8).

The Regulations provide that it is an offence for a vessel to proceed or attempt to proceed on any voyage without complying with the Code of Practice. Such offence may be committed by the owner or the skipper (regulation 6). The vessel is also liable to be detained (regulation 7).

Copies of the Code of Practice referred to in these Regulations may be obtained from the Alderney Harbour Master's Office, Sark Harbour Master's Office, Guernsey Sea Fisheries at the Commerce and Employment Department, and the Guernsey Harbour Office.

