

GUERNSEY STATUTORY INSTRUMENT

2021 No. 58

**The Merchant Shipping (Safety of Navigation) (Bailiwick
of Guernsey) Regulations, 2021**

<i>Made by the States' Trading Supervisory Board</i>	<i>6th May, 2021</i>
<i>Made by the General Services Committee</i>	<i>11th May, 2021</i>
<i>Made by the Harbours, Shipping & Pilotage Committee</i>	<i>25th May, 2021</i>
<i>Coming into operation</i>	<i>1st June, 2021</i>

THE STATES OF GUERNSEY STATES' TRADING SUPERVISORY BOARD, THE STATES OF ALDERNEY GENERAL SERVICES COMMITTEE, and THE CHIEF PLEAS OF SARK HARBOURS, SHIPPING & PILOTAGE 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 ("the Law") and all other powers enabling them in that behalf, hereby make the following regulations:-

PART 1

SHIPS

^a Order in Council No. VIII of 2004; there are amendments not relevant to these Regulations.

Application.

1. (1) Subject to the following provisions, this Part applies to all Guernsey ships wherever they may be, and to all other ships while they are within Guernsey waters.

(2) These regulations do not apply to –

(a) warships or naval auxiliaries, and

(b) ships which are owned or operated by the States of Guernsey, the States of Alderney, the Chief Pleas of Sark, an EEA State or a Contracting State, and used only on government non-commercial service.

Safety of navigation requirements.

2. (1) A ship to which these regulations apply shall comply with the requirements referred to in the following regulations or paragraphs of regulations in Chapter V –

(a) paragraph 3 of regulation 14,

(b) paragraph 2 of regulation 16, and

(c) regulations 29 to 35.

(2) A ship to which these regulations apply, save those ships which are small ships registered on Part III of the Register, shall comply with the requirements referred to in the following regulations or paragraphs of regulations in Chapter V –

(a) regulation 15,

(b) paragraphs 2 and 3 of regulation 17,

(c) regulation 19, and

(d) regulation 27.

(3) All ships which are obliged to be under the pilotage of a pilot under the Pilotage (Guernsey) Law, 1966^b and the Pilotage Ordinance, 1967^c while they are within Guernsey waters shall comply with regulation 23 in Chapter V.

(4) A ship to which these regulations apply save those ships which are—

(a) fishing vessels registered on Part II of the Register, or

(b) small ships registered on Part III of the Register

shall comply with paragraph 1 of regulation 28 in Chapter V.

Safety of navigation requirements: supplemental.

3. (1) For the purposes of paragraph 2 of regulation 30 of Chapter V, the list of all limitations on the operation of a passenger ship, together with any necessary explanations, shall be set out in a document appended to the ship's Passenger Ship Safety Certificate.

^b Ordres en Conseil Vol. XX, p. 206; there are amendments not relevant to these Regulations.

^c Recueil d'Ordonnances Tome XV, p.50; there are amendments not relevant to these Regulations.

(2) For the purposes of paragraph 1 of regulation 31 of Chapter V, the competent authorities are Guernsey Coastguard.

(3) For the purposes of paragraph 4 of regulation 31 of Chapter V, the Radio Regulations with which ships are required to comply are the radio Regulations annexed to, or regarded as being annexed to, the International Telecommunication Convention 1992 and include all amendments now in force and any amendment or replacement which is considered by the Secretary of State to be relevant from time to time and is specified in any subsequent Merchant Shipping Notice.

(4) For the purposes of paragraph 1 of regulation 33 of Chapter V –

- (a) a "**distress alert**" means a signal of distress from a ship or information from any source that a ship or hovercraft is, or persons on or from a ship or hovercraft are, in distress at sea,
- (b) the search and rescue service which the master must inform (in either instance referred to) is the search and rescue service for the area within which the persons in distress at sea are located, and
- (c) the recommendation of the IMO which the master must take into account is set out in the manual specified in the Guidance Notes to regulation 33 of Chapter V in the MCA's 2002 SOLAS V publication, or in any subsequent Merchant Shipping Notice amending or replacing that publication which is considered by the Secretary of State relevant from time to time.

(5) The master of a ship in distress, or the search and rescue service concerned, may requisition a ship in the circumstances set out in paragraph 2 of regulation 33 of Chapter V.

(6) A master shall be released from a duty imposed by paragraph 1 of regulation 33 of Chapter V in the circumstances set out in paragraph 3 of that regulation, and from the duty imposed in paragraph 1 or 2 (as the case may be) of that regulation in the circumstances set out in paragraph 4 of that regulation.

(7) Compliance by a master of a ship with the requirements of regulation 33 of Chapter V shall not affect his or her right, or the right of any other person, to salvage.

PART 2

HYDROGRAPHY AND PROMULGATION OF INFORMATION

Hydrographic surveying and notices to mariners.

4. (1) The Board shall ensure that hydrographic surveying is carried out within Guernsey waters, as far as possible, adequate to the requirements of safe navigation, and that nautical charts, sailing directions, lists of lights, time tables and other publications (where applicable) are issued that satisfy the needs of safe navigation in those waters, and that take into account, whenever possible, relevant resolutions and recommendations adopted by the International hydrographic Organisation.

(2) The Harbourmaster shall promulgate notices to mariners in order that nautical charts and publications are kept up to date, so far as reasonably practicable.

(3) The Board shall ensure that appropriate data management arrangements are in place to support these services.

PART 3
OFFENCES AND FINAL PROVISIONS

Offences and penalties.

5. (1) Any contravention of –
- (a) paragraph (3) of regulation 14 of Chapter V in respect of a ship shall be an offence by the owner and the master of the ship, punishable on summary conviction by fine not exceeding level 2 on the uniform scale,
 - (b) regulation 15, paragraph 2 of regulation 16, paragraph 2 or 3 of regulation 17, regulation 19, paragraph 1 of regulation 23, regulation 27, paragraph 1 of regulation 28, or regulation 29 of Chapter V in respect of a ship shall be an offence by the owner and the master of the ship, punishable on summary conviction by fine not exceeding level 4 on the uniform scale,
 - (c) regulation 30 of Chapter V in respect of a ship shall be an offence by the owner of the ship, punishable on summary conviction by a fine not exceeding level 5 on the uniform scale and on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both,
 - (d) paragraph 1 of regulation 31 of Chapter V in respect of a ship shall be an offence by the master of the ship,

punishable on summary conviction by fine not exceeding level 2 on the uniform scale,

- (e) paragraph 1 or 2 of regulation 33 of Chapter V in respect of a ship shall be an offence by the master of the ship, punishable on summary conviction by fine not exceeding level 5 on the uniform scale and on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both,
- (f) regulation 34-1 of Chapter V in respect of a ship shall be an offence by the person concerned, punishable on summary conviction by fine not exceeding level 5 on the uniform scale and on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both, and
- (g) regulation 35 of Chapter V in respect of a ship shall be an offence by the person who uses the signal in question, and by master of the ship, punishable on summary conviction by a fine not exceeding level 5 on the uniform scale and on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both,

(2) If a ship to which paragraphs 1 and 2 of regulation 34 of Chapter V applies proceeds or attempts to proceed to sea without complying with a requirement in either of those paragraphs, the master shall be guilty of an offence, punishable on summary conviction by a fine not exceeding level 5 on the uniform scale and on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

(3) It is a defence for a person charged with an offence under these Regulations to show that he or she took all reasonable steps to avoid the commission of the offence.

Interpretation.

6. (1) In these regulations -

"Chapter V" means Chapter V of the annex to the SOLAS Convention,

"Contracting State" means the government of a State other than an EEA State which has consented to be bound by the SOLAS Convention,

"the 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,

"fishing vessels registered on Part II the Register" means those vessels registered on Part II of the Register as described in sections 2 and 3 of the Merchant Shipping (Registration of Ships) (Bailiwick of Guernsey) Regulations, 2009.^d

"Guernsey" means the Bailiwick of Guernsey,

"Guernsey ship" means a ship registered in Guernsey under Part II of the Law or any other ship, vessel or craft normally based in Guernsey,

^d G.S.I. 2009 No. 10.

"Guernsey waters" means the sea or other waters within the seaward limits of the territorial sea of Guernsey,

"IMO" means the International Maritime Organization,

"the Law" means the Merchant Shipping (Bailiwick of Guernsey) Law, 2002,

"the MCA" means the UK Maritime and Coastguard Agency,

"the MCA's 2002 SOLAS V publication" means the MCA publication entitled "Safety of Navigation, Implementing SOLAS Chapter V, 2002", published in May 2002, including its annexes,

"Merchant Shipping Notice" means a notice described as such and issued by the MCA,

"Passenger Ship Safety Certificate" means a Passenger Ship Safety Certificate issued under the Merchant Shipping (Passenger Ships) (Bailiwick of Guernsey) Regulations, 2013^e,

"the Register" means the Guernsey Register of British Ships under section 8 of the Law.

"the Secretary of State" means one of Her Majesty's Principal Secretaries of State,

^e G.S.I. 2013 No. 3.

"small ships registered on Part III of the Register" means those ships registered on Part III of the Register as described in sections 1 to 3 of the Merchant Shipping (Registration of Ships) (Bailiwick of Guernsey) Regulations, 2009.

"the SOLAS Convention" means the International Convention for the Safety of Life at Sea, 1974 as amended in accordance with its Protocol of 1988 and the resolution of the Maritime Safety Committee of the IMO published by the IMO as Resolution MSC.99(73) of December 2000, and as further amended from time to time, and

"the uniform scale" means the scale of fines for offences set out in the Uniform Scale of Fines (Bailiwick of Guernsey) Law 1989^f.

(2) Where a ship is managed by a person other than her owner (whether on behalf of the owner or some other person, or on his own behalf), a reference in these regulations to the owner shall be construed as including a reference to that person.

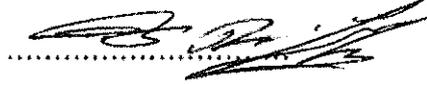
(3) Expressions not defined in paragraph (1) have the same meanings as in the Law.

Citation and commencement.

7. These regulations may be cited as the Merchant Shipping (Safety of Navigation) (Bailiwick of Guernsey) Regulations, 2021 and shall come into force on the 1st June, 2021.

^f Ordres en Conseil Vol. XXXI, p. 278 (amended by Recueil d'Ordonnances Tome XXV, p. 344 and Ordinance No. XXII of 1998).

Dated this day of , 2021



P. J. ROFFEY

President

For and on behalf of the States' Trading Supervisory Board

Dated this day of , 2021

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B. KELLY

Chairman

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

Dated this day of , 2021

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S. WILLIAMS

Chairman

For and on behalf of the Harbours, Shipping & Pilotage Committee of the Chief Pleas
of Sark

Dated this day of , 2021

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P. J. ROFFEY

President

For and on behalf of the States' Trading Supervisory Board

Dated this 11th day of May, 2021

A handwritten signature in black ink, appearing to read 'B. Kelly', written over a horizontal dotted line.

B. KELLY

Chairman

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

Dated this day of , 2021

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S. WILLIAMS

Chairman

For and on behalf of the Harbours, Shipping & Pilotage Committee of the Chief Pleas
of Sark

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P. J. ROFFEY

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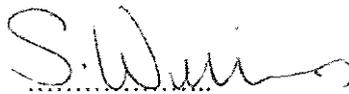
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B. KELLY

Chairman

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

Dated this day of , 2021



S. WILLIAMS

Chairman

For and on behalf of the Harbours, Shipping & Pilotage Committee of the Chief Pleas
of Sark

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations are made under sections 80, 81 and 289 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 ("the Law"). They give effect to certain provisions (including provisions relating to distress messages and danger messages) within Chapter V of the Safety at Life at Sea Convention, 1974 (commonly referred to as "SOLAS"), which chapter deals with the safety of navigation, and also make provision in relation to hydrography.

These regulations come into effect on 1st June 2021.