



REPUBLIC OF SAN MARINO

DELEGATED DECREE No. 104 of 9 August 2024

**We Captains Regent
of the Most Serene Republic of San Marino**

Having regard to Law No. 120 of 2 August 2019 and in particular Article 78 as replaced by Article 22 of Law No. 132 of 15 September 2023;

Having regard to the resolution of the Congress of State No. 26 adopted at its meeting of 6 August 2024; Having regard to Article 5, paragraph 2, of Constitutional Law No. 185/2005 and Articles 8 and 10, paragraph 2, of Qualified Law No. 186/2005;

We hereby promulgate and send for publication the following delegated decree:

AMENDMENTS TO LAW NO. 120 OF 2 AUGUST 2019 "REFORM IN THE FIELD OF MARINE NAVIGATION" AS AMENDED

Art. 1

(Amendment of Article 9 of Law No. 120 of 2 August 2019)

1. The following sentence shall be added to paragraph 1 of Article 9 of Law No. 120/2019: "In relation to security rights in ships, the right of the parties to agree on a different law shall not be affected, provided that the relevant security agreement is not contrary to mandatory principles, public order and morality of the State in whose register the ship is registered".

Art. 2

(Establishment of the Temporary Navigation Permit)

1. The following Article 21-bis shall be added after Article 21 of Law No. 120/2019:

"Art. 21-bis

(Temporary navigation permit for recreational crafts)

1. The temporary navigation permit is issued for navigation in maritime and inland waters, according to the limits provided for by the EC type-approval certificate or class certificate, and not for commercial transport purposes but solely for demonstration purposes, in order to:

- a) check the efficiency of the propulsion and the hull by means of sea trials at different speeds;
- b) present the recreational craft to the public, with the aim of advertising its characteristics to all those interested in purchasing it;
- c) transfer the recreational craft from one place to another without guests on board in order to attend international fairs and exhibitions of any kind, including abroad.

2. The permit is valid for one year and may only be issued to shipyards building vessels, marine engine manufacturers, yacht brokers, recreational craft dealerships and sales companies and any other persons assessed on a case-by-case basis by the Authority.

3. Only those recreational crafts belonging to the persons referred to in Paragraph 2 who so request shall be authorised for temporary navigation in accordance with the purposes set out in Paragraph 1.

4. The temporary navigation permit certificate includes every reference to the holder of the Permit, the identification number (Test Number Plate) preceded by the letter "T" (trial-test), references to the insurance policy covering risks to third parties as well as to transported guests and any provision deemed necessary.

5. The requirements and procedures for issuing the temporary navigation permit are set out in a special Policy Letter issued and published by the Authority".

Art. 3

(Amendment of Article 25 of Law No. 120/2019 as amended)

1. Number 2 *bis*), letter a) of paragraph 1 of Article 25 of Law No. 120/2019 and subsequent amendments is amended as follows:

"2 *bis*) private agreement;"

2. After paragraph 1 of Article 25 of Law No. 120/2019 as amended, the following paragraph 1 *bis* shall be added:

"1 *bis*. For a period of ninety days from the date of the first issue of the certificate of registration, the registration of a ship shall be considered provisional, pending delivery by the Authority of all the technical documentation necessary to ensure that the requirements for admission to navigation are met. The necessary technical documentation is identified through the registration guidelines set out in a special Policy Letter issued and published by the Authority. In order to complete the filing of the technical documentation with the Authority, the owner of the ship may request the Authority to extend the period of provisional registration up to a further ninety days, and thus for a maximum total period of one hundred and eighty days from the date of the first issue of the certificate of registration".

Art. 4

(Amendments to Article 29 of Law No. 120/2019)

1. After letter d), paragraph 1, of Article 29 of Law No. 120/2019, the following letter b *bis*) shall be added:

"d *bis*) in the event of the expiry of the provisional registration period referred to in Article 25, paragraph 1 *bis*, without the owner having filed with the Authority the certificate of removal of the ship from the register in which it was previously registered or all the technical documentation necessary to ensure compliance with the requirements for the admission of the ship to navigation".

Art. 5

(Amendments to Article 30 of Law No. 120/2019)

1. After paragraph 3 of Article 30 of Law No. 120/2019 as amended, the following paragraph 3 *bis* shall be added:

"3 *bis*. Until the fees or dues referred to in this Article have been paid, the Director General shall have the power to:

- a) refuse to renew flag certificates;
- b) refuse to perform any other act requested by the shipowner;
- c) suspend the use of the ship;
- d) delete the ship from the register.

Said powers may also be exercised cumulatively".

Art. 6

(Amendment of Article 58 of Law No. 120/2019 as amended)

1. Article 58 of Law No. 120/2019, as amended, is replaced as follows:

"Art. 58
(Crew list)

1. The ship's Master maintains a crew list on board that must be updated whenever there are changes in the crew.
2. The list must include at least:
 - a) name and surname of seafarers;
 - b) place and date of birth of seafarers;
 - c) place and date of embarkation;
 - d) place and date of disembarkation;
 - e) the references of the employment contract;
 - f) reason for disembarkation (end of contract, transfer to another vessel of the same shipping company, illness, accident or other reasons).
3. Said list must be signed by the ship's Master".

Art. 7

(Insertion of Title XII-bis *Professional maritime qualifications for the command of recreational crafts used for commercial activities (Commercial Yacht)*)

1. The following TITLE XII-bis shall be added after TITLE XII of Law No. 120/2019:

"TITLE XII-bis

PROFESSIONAL MARITIME QUALIFICATIONS FOR THE COMMAND OF RECREATIONAL CRAFTS ENGAGED IN TRADE (COMMERCIAL YACHTS)

Art. 76-bis
(Purpose)

1. The provisions of this Title govern the issuance of professional qualifications for command and conduct of recreational crafts engaged in trade.

Art. 76-ter
(Definitions)

1. For the purposes of the application of the provisions of this Title, the following definitions shall apply:
 - a) Near-coastal voyage: a voyage in which the unit does not stray more than 60 miles from a landfall;
 - b) Certificate of Competence (hereinafter also CoC for the sake of brevity): certificate of competence entitled "Certificate of Competence for the Command of ship having a gross tonnage less than 500 GT, for near-coastal voyage and limited for recreational crafts engaged in trade";
 - c) Master of recreational crafts engaged in trade: person qualified for the Command of ship having a gross tonnage less than 500 GT, for near-coastal voyage and limited for recreational crafts engaged in trade;
 - d) International Convention STCW 78, as amended: International Convention on Standards of Training Certification and Watchkeeping for Seafarers, as amended;
 - e) IMO: International Maritime Organisation;
 - f) Maritime training centres: centres where the specialised courses for maritime personnel provided for by the STCW Convention take place. These courses are delivered on the basis of the training requirements set out in the STCW Convention and its code, which are recognised by the Authority on the basis of the result of an Audit, rules and the procedures established by the Authority, in accordance with the principles of the ISO standard
 - g) Recreational crafts engaged in trade: as defined by the relevant technical codes, referred to as "Yacht codes" for crafts less than 24 metres in length or with a hull length of 24 metres and more;
 - h) Length: the length of the unit (Yacht) as defined by the 1966 International Convention on Load Lines concluded in London on 5 April 1966.

Art. 76-quater

(Command and conduct of recreational crafts engaged in trade and Certificate of Competence)

1. Recreational crafts engaged in trade having a gross tonnage less than 500 GT used for the transport of up to twelve passengers may be commanded by Masters holding Certificates of Competence in accordance with the requirements set out in Article 76-quinquies.
2. The Certificate of Competence for the command of ship having a gross tonnage less than 500 GT, for near-coastal voyage and limited for recreational crafts engaged in trade is issued in accordance with the criteria of the Convention STCW 78, as amended, as a Certificate equivalent to the Certificate of Competence for Masters qualified for navigation on near-coastal voyage for ship less than 500 GT, in line with the principles laid down in Article IX and Regulation II/3 of the said Convention. This certificate is issued on a “Form” consistent with those provided for in the Convention STCW 78, as amended.

Art. 76-quinquies

(Requirements for obtaining the Certificate of Competence)

1. Personnel requiring to obtain the Certificate of Competence to command ship having a gross tonnage less than 500 GT, for near-coastal voyage and limited for recreational crafts engaged in trade must be at least twenty years old and physically fit in accordance with the criteria set out in the Convention STCW 78, as amended, and must also meet one of the following requirements:
 - a) completion of twelve months of navigation on merchant ships as a qualified navigational officer, as per Convention STCW 78 as amended; or
 - b) they must hold a qualification, without limitation, for the command of recreational crafts less than 24 metres in length, for at least five years and must have completed at least twelve months of navigation on such units; or
 - c) they must hold a qualification to command recreational crafts of 24 metres and more in length for at least five years and must have completed at least twelve months of navigation on such units.
 - d) Maritime professional qualifications obtained abroad will be assessed by the Authority on a case-by-case basis, if such professional qualifications are at least in compliance with the same requirements for obtaining the qualification referred to in letters b) and c).

Personnel holding Certificates of Competence for the ship having a gross tonnage more than 500 GT, as per Convention STCW 78 as amended, issued by foreign Maritime Administrations included in the IMO white list, referred to in IMO Circular Letter MSC.1/Circ.1163/Rev.13 and subsequent amendments, or personnel holding certificates for commanding of military ships without tonnage limits, may obtain the Certificate of Competence for ship having a gross tonnage less than 500 GT, for near-coastal voyage and limited for recreational crafts engaged in trade, without taking any examination, provided that they have attended the training courses referred to in paragraph 2 below;

2. Personnel interested in obtaining the aforementioned Certificate of Competence (CoC) shall also attend the following training courses, provided for in Chapters II and VI of the STCW Code, at training centres recognised by the Authority:
 - a) For certification to conduct recreational crafts engaged in trade less than 24 metres in length and less than 200 GT:
 1. Basic and advanced fire fighting;
 2. Survival at sea;
 3. PSSR – Personal safety and social responsibilities;
 4. First aid and medical care;
 5. Security Awareness;
 6. GMDSS (restricted operator certificate - ROC);
 7. ECDIS, only if the unit is equipped with an approved type of electronic cartography system in ENC format.

- b) For qualifications to conduct recreational crafts engaged in trade of 24 metres and more and less than 500 GT:
1. Basic and advanced fire fighting;
 2. Survival at sea;
 3. First aid and medical care;
 4. Security Awareness;
 5. GMDSS (restricted operator certificate - ROC);
 6. Radar Base and ARPA;
 7. PSSR – Personal safety and social responsibilities;
 8. ECDIS, only if the unit is equipped with an approved type of electronic cartography system in ENC format.
3. Upon completion of the aforementioned courses, candidates shall take a theoretical examination in accordance with the approved education program and the related examination referred to Annex A to meet the standard of competence specified in section A-II/3 of the STCW Code for masters on ships of less than 200 GT or less than 500 GT for near-coastal voyage and limited for recreational crafts, engaged in trade.

Article 76-sexies

(CoC - Certificate of Competence for commanding recreational crafts engaged in trade)

1. Personnel meeting the requirements of Article 76-quinquies, paragraph 1, letter b), may obtain the Certificate of Competence for commanding units less than 24 metres in length and less than 200 GT.
2. Personnel meeting the requirements of Article 76-quinquies, paragraph 1, letters a) and c), may obtain the Certificate of Competence for the command of units of 24 metres or more and less than 500 GT.

Article 76-septies

(Examinations)

1. The examinations to obtain the above-mentioned Certificates of Competence are taken before an examination board including:
 - a) Director General of the Authority acting as Chairman, or another official of the Authority delegated for this purpose;
 - b) an expert examiner appointed by the Authority having the same necessary skills and qualifications as the Master of recreational crafts engaged in trade, or holding one of the following qualifications: Master of merchant ships, unlimited; Chief Engineers, unlimited; personnel holding certificates for commanding of military ships without tonnage limits; teachers at technical- nautical institutes; university teachers specialized in maritime education, as referred to in Annex A below;
 - c) an official appointed by the Authority to act as secretary of the examination session.
2. Applicants wishing to obtain the professional titles referred to in this Title must submit a special application accompanied by the documents required and by a receipt of payment, in accordance with the fee schedule provided for by the Authority.
3. The examinations are held at the Maritime Authority's premises in San Marino and may also be held at Training Centres recognised by the same Authority, outside the territory of San Marino; the costs of the Examination Commission, in addition to the travel and mission expenses of its members, shall be borne by the Training Centre recognised by the Authority.

Article 76-octies

(Validity of the CoC)

1. The Certificate of Competence shall remain valid for five years and it may be renewed, if this period includes at least one year of actual navigation on board ship having a gross tonnage less than 500 GT, for near-coastal voyage and limited for recreational crafts engaged in trade;
2. The Certificate of Competence is suspended by the Authority if, as a result of the periodic health assessment provided for in the STCW Convention, as amended, the temporary loss of physical and mental fitness is observed. In said case, the CoC is suspended until the person concerned produces a psychophysical fitness certificate. The CoC may also be suspended by the Authority for up to twelve months in any of the following cases:
 - a) for proven assumption of command, control or nautical direction while intoxicated or under the influence of any other intoxicating or narcotic substance;
 - b) when the qualified person commits acts of imprudence, negligence or inexperience such as to endanger public safety or to cause accidents and damage to persons, properties and port and mooring facilities;
 - c) at the request of the competent Judicial Authority for reasons of public safety.
3. Certificate revocation may occur in the following cases:
 - a) loss of physical fitness;
 - b) death of the person concerned.

Article 76--novies
(Registration of Certificates)

1. Data concerning certificates issued and subsequent changes are recorded in a special computerised database maintained by the Authority".

Art. 8
(Insertion of Annex A to Law No. 120/2019 as amended)

1. Annex A, corresponding to Annex A to this delegated decree, is added to Law No. 120/2019, as amended.

Art. 9
(Repeals)

1. Delegated Decree No. 75 of 3 May 2022 and Delegated Decree No. 130 of 8 September 2023 are hereby repealed. This is without prejudice to acts and effects performed in accordance therewith.
2. Delegated Decree No. 151 of 26 October 2023 and Delegated Decree No. 4 of 5 January 2024 are hereby repealed. This is without prejudice to acts and effects performed in accordance therewith.

Issued from Our Residence, this 9th of August 2024/1723 since the founding of the Republic.

THE CAPTAINS REGENT
Alessandro Rossi - Milena Gasperoni

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS *Andrea*
Belluzzi

ANNEX A to Delegated Decree No. 104 of 9 August 2024

ANNEX A to Law No. 120 of 2 August 2019

i) EXAMINATION PROGRAMME FOR THE ATTAINMENT OF THE QUALIFICATIONS FOR COMMANDING SHIP HAVING A GROSS TONNAGE LESS THAN 500 GT, FOR NEAR COASTAL VOYAGE AND LIMITED FOR RECREATIONAL CRAFTS ENGAGED IN TRADE

A) For certification to conduct recreational crafts engaged in trade, less than 24 meters in length and less than 200 GT:

1. Theoretical test:

- a) duties and responsibilities of the Master;
- b) preparation of the navigation plan and practical execution of a cruising problem, using the reference nautical chart;
- c) assessment of marine weather conditions, prior to sailing and during the route;
- d) knowledge of nautical publications;
- e) knowledge of how to conduct the unit in the event of navigation equipment failure;
- f) knowledge of offshore coastal navigation aids;
- g) knowledge about the dynamic elements of the unit and stability;
- h) knowledge of on-board emergency procedures (fire fighting, abandon ship, man overboard);
- i) knowledge of passenger security information techniques;
- l) knowledge of manoeuvring procedures, both during navigation and when entering and leaving ports;
- m) knowledge of the English language, as ascertained during the examination itself, which will also be held in English;
- n) knowledge of international anti-pollution regulations (Marpol).

B) For certification to conduct recreational crafts engaged in trade of 24 meters in length and more and less than 500 GT:

1. Theoretical test:

- a) duties and responsibilities of the Master;
- b) preparation of the navigation plan and practical execution of a cruising problem, using the reference nautical chart;
- c) assessment of marine weather conditions, prior to sailing and during the route;

- d) knowledge of nautical publications;
- e) knowledge of how to conduct the unit in the event of navigation equipment failure;
- f) knowledge of offshore coastal navigation aids;
- g) knowledge about the dynamic elements of the unit and stability;
- h) knowledge of on-board emergency procedures (fire fighting, abandon ship, man overboard);
- i) knowledge of passenger security information techniques;
- l) knowledge of manoeuvring procedures, during navigation and when entering and leaving ports;
- m) knowledge of the English language, as ascertained during the examination itself, which will also be held in English;
- n) knowledge of international anti-pollution regulations (Marpol).

