

Circular - Series R

Circular Series R (Regulations) supersedes previous Series F. In the new Series R, relevant legal amendments and amendments to conventions are also published.

Circular recipients: (check box)

- Sdir: Norwegian Maritime Authority
- A: 16 specially authorised employment offices
- U: Selected foreign service missions
- P: Equipment manufacturers, any subgroups
- OFF: Offshore companies/OIM/operators
- Hov: Main organisations
- H.i. Bodies or agencies for their comments
- Others:

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The Circular should be entered into a special diagram or as appropriate in the latest editions of relevant NMA publications and kept until the next editions.

New Regulations on open wooden ships carrying more than 12 passengers

The Norwegian Maritime Authority (NMA) has laid down new Regulations on open wooden ships carrying more than 12 passengers. These Regulations enter into force on 1 February 2020. In this connection, amendments have been adopted to the Regulations of 21 April 2017 No. 515 on accommodation, recreational facilities, food and catering on ships and the Regulations of 22 December 2014 No. 1893 on supervision and certificates for Norwegian ships and mobile offshore units.

The consultation

Proposed draft Regulations on open wooden ships carrying more than 12 passengers were circulated for review between 23 March 2018 and 15 May 2018 and between 9 May and 20 June 2019. The proposal was prepared on assignment from the Ministry of Trade, Industry and Fisheries.

A total of 6 consultative statements came in, whereof 2 did not include any comments to the proposal.

Oseberg Viking Heritage Foundation, the boat clubs Oseberg Båtlag, Farmann Båtlag and Båtlaget Gaia sent a collective comment stating that their main impression was positive, including a few comments mainly concerning the great differences in equipment requirements compared to ships carrying 12 passengers or less¹.

The Norwegian Coastal Federation (Forbundet Kysten) commented that the proposal was pretty much suitable for the ship type and referred to the consultative statements from Oseberg Viking Heritage Foundation and the boat clubs Oseberg Båtlag, Farmann Båtlag and Båtlaget Gaia.

The University of South-Eastern Norway wrote that the proposal includes a number of beneficial provisions, but requested a clarification of the content of section 2 second paragraph.

Norsk leirskoleforening, the Norwegian school camp association, commented that the new Regulations would also be suitable for boats used at school camps.

Further details on the Regulations

Purpose of the Regulations

Open wooden ships are often simple constructions of limited size with a limited area of operation. Many of these ships are operated by organisations working with mediation of culture where the ship has an

¹ Regulations of 24 November 2009 No. 1400 on the operation of vessels carrying 12 passengers or less, etc.

important historical role. Therefore, the Ministry of Trade, Industry and Fisheries has expressed a wish to establish regulations adapted to simple ship types, degree of voluntariness and voyages in a limited area of operation for a time span limited to the summer season.

The Ship Safety and Security Act²

An absolute requirement is that a ship shall be so designed, constructed and equipped that, according to its purpose and trade area, it provides for the satisfactory protection of life, health, property and the environment³.

Current safety requirements for Norwegian ships are implemented in detail in regulations pursuant to the Ship Safety and Security Act. The current regulations include well-grounded requirements for what is considered justifiable in terms of safety with respect to design, construction and equipment of passenger ships. A passenger is every person other than the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship and other than a child under one year of age. A passenger ship is a ship certified to carry more than 12 passengers⁴. The requirements of the Regulations are adopted to ensure the safety of passengers, personnel, environment and property.

Most of the regulations adopted in accordance with the Ship Safety and Security Act are stipulated considering ships for commercial operation in a specific trade area. The Ship Safety and Security Act shall “safeguard life, health, property and the environment by facilitating a high level of ship safety and safety management, including preventing pollution from ships, ensuring a fully satisfactory working environment and safe working conditions on board the ship as well as appropriate public supervision of ships⁵.” Regulations adapted to the different ship types can be implemented pursuant to the Ship Safety and Security Act.

A fundamental requirement for a company is to have a safety management system that will identify and control risks and to ensure compliance with requirements laid down in or pursuant to a statute⁶.

A simpler scheme

The new provisions for open wooden ships are simplified compared to the provisions that apply to ordinary passenger ships for commercial operation. The safety level for wooden ships which shall comply with the new Regulations is lower than the required safety level for a ship required to hold a passenger certificate pursuant to section 20 of the Certificate Regulations⁷.

As a result of the proposal for open wooden ships, taking into account considerations expressed by the industry, a few particularly tailored limitations on the operation of these ships are set out to maintain an acceptable level of safety. Therefore, it has been decided that ships complying with the new Regulations are not required to keep a passenger certificate. A certificate gives an impression of compliance with the general adopted safety level for ordinary passenger ships in a particular trade area and must be reserved for ships that are complying with these rules.

The exemption from the certificate requirement and the content of the new Regulations mean that the companies may do specific adjustments related to complying with the ship’s new safety requirements. This supports the industry’s hope to reduce costs related to the operation, increased company control and responsibility for inspection and maintenance. In this respect, the NMA highlights the importance of the company taking full responsibility for the operation.

² Act of 16 February 2007 No. relating to ship safety and security (Ship Safety and Security Act).

³ Ship Safety and Security Act section 9.

⁴ Regulations of 1 July 2014 No. 1072 on construction of ships section 2 second paragraph (a).

⁵ Ship Safety and Security Act section 1.

⁶ Ship Safety and Security Act section 7.

⁷ Regulations of 22 December 2014 No. 1893 on supervision and certificates for Norwegian ships and mobile offshore units

The company

Several parties owning or operating open wooden ships are non-profit associations or organisations that do not necessarily regard themselves as a company. The Ship Safety and Security Act uses the term “company” to refer to the party responsible for compliance with the applicable safety requirements. The registered owner is considered the owner of the ship if the requirement of a Safety Management Certificate is not applicable to the ship⁸. If the ship is registered, the registered owner is considered the owner of the ship.

Pursuant to section 6 of the Ship Safety and Security Act, the company has an overall duty to see to that the construction and operation of the ship is in accordance with the rules laid down in or pursuant to the Act, including that the master and other persons working on board comply with the legislation.

Responsibilities of the shipping company

The companies must be particularly proactive in terms of meeting the requirements for identifying, controlling and handling risks on their own ships, and have appropriate monitoring and maintenance procedures. The company has an «...overall duty to see to that life, health, property and the environment will be protected in accordance with the rules laid down in or pursuant to this Act.⁹» «The company shall in general ensure compliance with requirements laid down in or pursuant to the Act to see to that life, health, property and the environment will be protected¹⁰.»

The scope of application of the Ship Safety and Security Act

The Ship Safety and Security Act applies to all ships, regardless of length, used for commercial purposes. Odelsting Proposition No. 87 (2005–2006) on the Act relating to ship safety and security (Ship Safety and Security Act) also states the following in item 19.1: “Even though the Act is primarily intended for ships used for commercial purposes, it is not a criterion that the ship is used for commercial purposes in order for the Act to apply.”

The Regulations are pursuant to the Ship Safety and Security Act and applies to all ships used for commercial purposes. The principle of the Ship Safety and Security Act is that the actual use of a ship is decisive for which regulations to follow.

The official Norwegian report NOU 2005:14 På rett kjøll (only in Norwegian) item 7.1.3.2 includes the following on the term “commercial purposes”:

“When deciding whether the use is related to commercial purposes or not, an important factor will be whether remuneration is made for the transport of persons or goods. The requirement of remuneration must be widely interpreted to include situations where the operation of the ship is financed by government subsidies, memberships or associations, etc. instead of payment in cash.”

The term *commercial purposes* as referred to in the Ship Safety and Security Act is not related to the use of the same term in other legislation. This can probably be linked to the objective of the Ship Safety and Security Act to safeguard life, health, property and the environment, and the intention from the legislator to cover a wide range of areas.

There is no requirement that the company must be profitable or that the passengers must purchase a ticket upon boarding. Other aspects can also be emphasised, for example who and how many persons the activities are directed at, how the company’s activities are organised, and whether such activities are publicly announced. If a restaurant on an island offers “free” transport by boat in order to attract

⁸ Ship Safety and Security Act section 4.

⁹ The official Norwegian report NOU 2005:14 På rett kjøll (only in Norwegian) item 6.7.4.1.

¹⁰ The official Norwegian report NOU 2005:14 På rett kjøll (only in Norwegian) item 6.7.4.1.

customers, the boat ride will be included in the restaurant's operation and thus be subject to the Ship Safety and Security Act.

There are many non-profit organisations such as schools, school camps, daycare centres, etc. that offer ship-related activities. These organisations are financed by government subsidies, membership fees, etc. and are directed at a large group of people. These types of organisations are regulated by the Ship Safety and Security Act. This also applies to public utility organisations, non-profit organisations or training institutions with good intentions, which are not exempted from the Ship Safety and Security Act. The fact that the persons on board are trained in coastal culture, history, safe boating, etc. is not significant when making the assessment. The Act also applies to these organisations.

Comments to the individual sections:

Section 1 Purpose

The preamble shall explain the purpose of the Regulations as well as the ships that the Regulations are intended to apply to. The preamble provides guidance on how to interpret the provisions of the Regulations. The Regulations shall maintain a high level of ship safety in order to safeguard life, health, property and the environment. Section 1 The interpretation of the provisions must take place in accordance with the purpose.

The Regulations include safety requirements for open wooden ships that are traditionally designed and constructed and are operated with a primary objective to impart information about the history of ships. These ships are currently operated by volunteers in a restricted trade area during the summer season.

The wording of the preamble clarifies the fact that the Regulations are not intended for open wooden ships used for ordinary transport of passengers. The preamble may contribute to reduce any doubts about interpretation of which ships will fall under the scope of the Regulations.

Section 2 Scope of application

First paragraph

The Regulations apply to Norwegian open wooden ships engaged on domestic voyages carrying more than 12 passengers and capable of being propelled by oars or sail.

Domestic voyage means a trade area as referred to in chapter 2 of the Regulations of 4 November 1981 No. 3793 on trade areas.

The Regulations apply to ships carrying more than 12 passengers, i.e. what would be called a passenger ship in normal ship terminology.

A passenger means every person other than the master and the members of the crew or other persons employed on board a ship and other than a child under one year of age. This is the general definition that is used in many of the NMA's regulations.

The definition means that trips with random visitors from companies, institutions, schools, "guest crew", tourists, etc. are regarded as voyages carrying passengers. Normally, these individuals will only be on board for a short period of time and do not necessarily have any experience of being at sea. Even if they will be introduced rowing or sailing before the voyage begins and they intend to take an active part in the

entire voyage or parts of the voyage, they will not be considered part of the crew, as they are only included in an organised activity.

Active members of for instance coastal and boat associations where participating members have a real connection to the association and get to know the ship and operation over time, could be regarded as crew members.

The wording “can be propelled by oars or sail” means that the ship must be capable of being operated by oars or sail, but it also means that ships with a propulsion machinery fall under the scope of the Regulations. The NMA is aware of the fact that some ships have an auxiliary engine.

Second paragraph

In these Regulations, an open wooden ship means a ship without a flush deck and with no accommodation spaces under deck. See figures 1 and 2 below. Even if an open wooden ship has a superstructure such as a cabin or a detachable deckhouse in the aft bulkhead (figure 2), the boat is not considered to have accommodation below deck.

Figure 1: Open ship

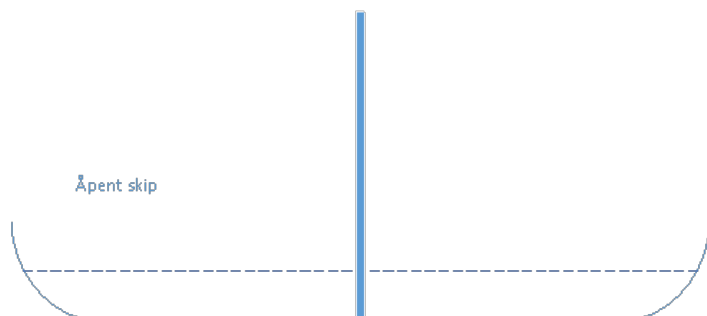
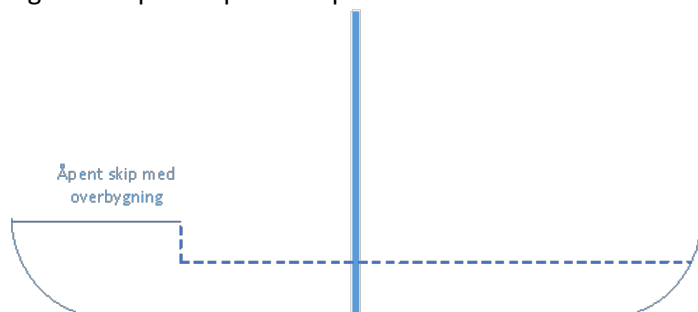


Figure 2: Open ship with superstructure



Section 3 Special rules for wooden ships that are used by members of associations or societies

Sections 4 to 20 do not apply when the ship is on a voyage carrying only members of the association or society (trips for members) operating the ship.

Based on an overall assessment, the NMA has accepted that vessels of less than 24 metres in overall length which are operated by non-profit organisations, may follow the rules applicable to recreational craft, even if the entire operation or parts of it are financed by membership fees. However, the members must have a real connection to the society, the voyages must be reserved for members and the use of the ship should be best characterised as a recreational activity. By “real connection”, we mean that the society does not sell “memberships” rather than tickets.

The exemption covers associations or societies when the ships are used for leisure activities by members, for example coast organisations where members take part in voluntary work and use the association’s vessels, yacht clubs using their vessels for trips or regattas or sea scouts on excursion. When the public are invited to join a trip, or if anyone without any ties to the organisation pays a “membership fee” instead of paying for a ticket to join a single voyage, the Ship Safety and Security Act and regulations pursuant to the Act will apply.

The wording “used by members” has been chosen not to exclude any cases where for instance private individuals place a ship at the disposal of an association.

The company must be able to document that there are only members on board. The association must keep and update membership lists which must be presented in the event of an inspection. This is important in order to establish when the ship is covered by the exemption of section 3 and when the ship must comply with the other provisions of the Regulations.

The master of such a ship shall have a boating license as a minimum.

Section 4 The relationship to other rules

In areas where these Regulations do not have any special provisions, other regulations may apply depending on the scope of application of the individual regulation.

When, for instance, the Regulations have specific provisions for life-saving appliances, that implies that other regulations concerning life-saving appliances do not apply to ships covered by these Regulations.

The fact that these Regulations do not include any specific provisions on environmental safety, etc. implies that the requirements for passenger ships set out in the Regulations on environmental safety for ships and mobile offshore units are applicable to open wooden ships.

Section 5 The company's duty to register and submit information

The company shall register information about their operation at the Norwegian Maritime Authority (NMA). The duty applies to all companies offering activities that are not included in the exemptions under section 3. Information that could be required is the company’s contact information as well as information about the ships being used. The company must also confirm that the requirements of the Regulations have been reviewed and complied with.

Over time, the duty to submit information will form a basis to see if the Regulations are working, and the companies must take responsibility by actively reporting their activities and confirm that the requirements of the Regulations are reviewed and complied with. Companies which have not submitted such information are not entitled to carry passengers.

The information sent to the NMA will not be reviewed or approved, but form the basis to get an overview of how extensively the Regulations are used. The registration is valid for up to one year before it is

automatically deleted. The company must actively renew the registration at least once a year. In this way, the overview of the different actors will be fairly updated.

Initially, this will take place when the company completes a brief form and sends it to post@sdir.no for registration. In the long term, a web-based solution could be considered. The NMA will publish guidelines on the registration process.

The NMA will consider the need to publish a list of the registered companies to keep the public informed of which companies operate based on the Regulations.

The requirement is not considered particularly burdensome, because either way the company has to review the requirements of the Regulations and consider which measures should be taken on the individual ship. This may help the company to regularly check that requirements are complied with and safety at sea is ensured.

Section 6 Safety management system

The safety management system requirement is fundamental to operate the ship safely, cf. section 7 of the Ship Safety and Security Act.

Section 6 of the proposed regulations suggested a reference to the Regulations of 16 December 2016 No. 1770 on safety management for small cargo ships, passenger ships and fishing vessels, etc. sections 2 to 11.

Oseberg Viking Heritage Foundation and the boat clubs Oseberg Båtlag, Farmann Båtlag and Båtlaget Gaia have commented on the wording of section 6 of the proposal, suggesting that it be replaced by the wording of the proposed section 4 of the draft Regulations on vessels of less than 24 metres carrying 12 passengers or less (12 PAX)¹¹. The principle of including the wording from other relevant sections of other Regulations rather than using references is also supported by the consultative statements from the Norwegian Coastal Federation (Forbundet Kysten).

The NMA regards the wording of the suggested section 4 in the proposed new Regulations on vessels of less than 24 metres carrying 12 passengers or less (12 PAX) to be adequate. "The contents, scope and documentation of the Safety Management System shall be adapted to the needs of the company and its activities¹²." For example, separate procedures must be established regarding maintenance and use of rigging and sails, etc. to ensure a satisfactory level of safety while the ship is in service.

Section 7 Operational limitations

Operational limitations have been established that are proportionate to the Regulations' requirements regarding construction and equipment on board. The NMA has considered feedback from the industry that some ships may have a home port or operational area that requires the ship to move into trade area 3.

Activities restricted to the summer season is a characteristic feature for the operation of open wooden ships pursuant to the Regulations. This is one of the aspects distinguishing this type of operation from the ordinary carriage of passengers and providing a basis for more adapted rules, which means that the adopted operational period is from 1 April to 31 October.

¹¹ <https://www.sdir.no/sjofart/regelverk/utgatte-horinger/forslag-til-ny-forskrift-om-fartoy-under-24-m-som-forer-12-eller-farre-passasjerer/>

¹² The official Norwegian report NOU 2005:14 På rett kjøll (only in Norwegian) item 6.7.4.1.

One of the requirements is that the operation must take place during daylight hours and under good conditions of visibility. Comments from Oseberg Viking Heritage Foundation, the boat clubs Oseberg Båtlag, Farmann Båtlag and Båtlaget Gaia suggest that this wording may cause the master unintentionally to violate the Regulations in the event of bad weather or low visibility, or when facing challenges that will delay port calls till after dark. The NMA would like to point out that no one will be accused of violating the Regulations if the voyage is planned properly but still experience bad weather or low visibility. However, the main point is that it is not allowed to plan for operation under such prohibited conditions.

Operations outside of trade area 2 must take place not more than one nautical mile (1852 metres) from the closest port of refuge. A port of refuge is a natural or artificially protected area which may be used as a shelter by the ship. By way of comparison, the Danish regulations for open wooden ships have a limitation of 1500 metres from the shore.

The ship may operate in a maximum wave height of one metre. The wave height must be evaluated continuously by the master. The NMA recommends using the free service barentswatch.no to make plans ahead of and during the voyage when there are any issues regarding wave height. Wave heights of one metre correspond to expected conditions for trade area 2, but also the possibility for operation in greater trade areas when the weather is fine.

The third paragraph is based on the Regulations governing ships primarily constructed and operated by oars or sail. To ensure that ships having sails are navigable, also at times when sailing is not feasible, such ships are required to be capable of being propelled by oars or engine in addition to sails.

Section 8 Construction and outfitting

Pursuant to section 9 of the Ship Safety and Security Act, the company has a duty to ensure that a ship is so designed, constructed and equipped that it according to its purpose and trade area provides for the satisfactory protection of life, health, property and the environment.

A requirement is set for minimum freeboard before placing passengers at side, which is in accordance with the requirements of the Nordic Boat Standard (NBS) and will ensure a freeboard providing a certain reserve buoyancy in sea state.

Open ships are in accordance with the NBS limited to operations in protected waters only.

NBS Y2.14 Open boat: A boat which is intended for use in sheltered waters. It can be partly covered or open

Minimum freeboard shall, according to the NBS, be established by means of a formula (based on displacement, length and width), but shall never be less than 0.5 m. When passengers are placed at side of the ship, the freeboard shall be minimum 0.2 m, cf. NBS Y3.2 and Y31.3.2.

A ship with a displacement of 15 tonnes, an overall length of 20 metres and a width of 5 metres will for instance have a minimum freeboard of 0.5 metres.

A minimum freeboard of 0.5 m (cf. NBS Y3.2.1(b)) shall apply, regardless of length, to prevent the formula of Y3.2 to give disproportionate stringent freeboard requirements for the largest ships. The NMA has emphasised that the Regulations apply to open wooden ships that are traditionally designed and constructed without many options to change the vessel's main dimensions. The master must consider the freeboard when assessing operational limitations.

The company must document that the ship has sufficient stability by conducting an inclining test or by presenting the ship's stability calculations. Stability calculations are required to document the stability of a passenger ship. To ensure a sufficient stability of a ship, the company may, as an alternative to stability calculations, carry out an inclining test in accordance with the Nordic Boat Standard (NBS).

The stability criteria are based on the requirements of the NBS. This includes an inclining test for establishing the ship's metacentric height (GM) (in lightship condition), angle of heel and freeboard when the maximum number of persons on board are placed in the least favourable way at the side of the ship.

Oseberg Viking Heritage Foundation and the boat clubs Oseberg Båtlag, Farmann Båtlag and Båtlaget Gaia have commented that the requirement for a new inclining test due to a change of ballast is imprecise. The NMA specifies that persons and equipment are not to be considered as ballast. Persons and equipment may be used to change the centre of gravity during the voyage if necessary.

The companies themselves establish which loading conditions (maximum and minimum ballast) that will be applied for their use. Inclination tests must be conducted to confirm that regulatory stability requirements are complied with for the ship's suggested loading conditions. There is no need for a new inclination test as long as there are variations for the established loading conditions.

The NMA will keep the stability requirements currently established in Y3.4, even though they are unnecessary according to Oseberg Viking Heritage Foundation and the boat clubs Oseberg Båtlag, Farmann Båtlag and Båtlaget Gaia. The requirements are specific, established in the industry and clearly explained. Y3.4 also includes an alternative method to be chosen. This is an alternative method if the first cannot be used.

Any theoretical calculations must be made in a program approved by the NMA and must be based on the NBS Y3.4 and Y31.3.2 criteria. Alternatively, the criteria of section 19 of the Regulations on the construction of ships¹³ may be used.

Ballast

Normally, open wooden ships with rigging will have stone ballasting (from 1 to 5 tonnes) to ensure sufficient stability during a voyage. The necessary ballast will be established by the company based on experience and will vary from ship type to ship type. Moreover, the industry has communicated that the ballast stones lie loose in the ship, so that they will roll overboard in the event of capsizing. It is important to secure the ballast during navigation to maintain the stabilising effect. This is also in accordance with the requirements of the Nordic Boat Standard Y3.5 and general requirements for ballast in international standards. The requirement for safeguarding of ballast shall not prevent the ballast stones from rolling overboard in the event of capsizing.

Section 9 Engine and electrical installations

Even though the ship primarily is constructed to be propelled by sails or oars, engines installations are permitted on board. The rules of the Nordic Boat Standard are applicable.

Section 10 Seats and superstructure

One of the best precautions to avoid falling overboard from an open ship is to make as many persons as possible remain seated while the ship is underway. This is organised by requiring seating for all in accordance with the provisions that apply to open passenger ships today. The requirement also contributes to determine the number of persons for which the ship is designed. The 45 cm width is a minimum requirement, and if for example rowers need more space, the number of passengers will be limited accordingly.

Viking ships and other open wooden ships were traditionally equipped with tents or superstructures where the crew could sleep. Superstructures like this are allowed even if the Regulations apply to open wooden ships. Ships with spaces used as public spaces must provide for safe evacuation and adequate

¹³ Regulations of 1 July 2014 No. 1072 on the construction of ships.

ventilation. Spaces with smaller doors and no ventilation are allowed. However, the space may only be used for storage of equipment, not as an accommodation space for persons.

Section 11 Fire safety requirements

The company must identify the most important fire hazards on board and consider appropriate fire protection measures.

The company must adapt their fire protection measures based on specific assessments of fire hazards on board.

Section 12 Life-saving appliances

This section is made based on an overall evaluation of the safety level of the Regulations. The primary goal of these requirements is to prevent accidents from happening. Capsizing is a type of incident that we have tried to prevent to the greatest extent possible, for example by requiring masters to be familiar with the ship type and by setting requirements for stability and freeboard. Nevertheless, the company's risk assessments pursuant to section 6 may result in a requirement of wearing a lifejacket during navigation.

We have accepted the same overall principles for rescue that apply to other passenger ships in Norway. In the event of an emergency in our waters, the most obvious solution will be to evacuate directly from the ship to a liferaft. The company must ensure that the ship and crew are able to deal with an emergency.

The ship and crew must also be able to deal with a man overboard situation. A man overboard situation may occur during normal operations, not necessarily in an evacuation procedure. In a situation like this, the person may not be wearing flotation clothing or a suit with thermal protection, and a quick response is crucial.

First paragraph:

This provision will ensure that all life-saving appliances are in working order and ready for use when the ship leaves port. The company must have procedures for inspection to make sure the requirements are complied with. The ship shall not leave port with defective life-saving appliances.

The NMA's proposal was to include a requirement for wheel-marked life-saving appliances in the Regulations, in line with the standard for all ships carrying more than 12 passengers. However, in a letter dated 8 January 2020¹⁴, the Ministry of Trade, Industry and Fisheries concluded that wooden ships covered by the Regulations should be exempt from the requirement of wheel-marked life-saving appliances and that CE-marked life-saving appliances will be accepted as satisfactory. The first paragraph is changed in accordance with the ministry's decision.

Second paragraph:

The ship shall be equipped with open liferafts and reversible inflatable liferafts.

A spare liferaft shall be kept on board to ensure an adequate liferaft capacity for all persons on board. When calculating the capacity, consideration shall be given to whether failures or faults in common components can result in one liferaft being lost or rendered unserviceable. For a ship carrying 50 persons, the company may choose to have two liferafts, each capable of accommodating 50 persons, or three liferafts, each with a capacity of accommodating 25 persons, in order to comply with the requirement.

¹⁴ Ministry of Trade, Industry and Fisheries reference No. 17/4598-17; Norwegian Maritime Authority reference No. 2017/75902-119.

Liferafts shall be so stowed as to inflate and release automatically if the ship sinks. This means that the liferaft must be secured with an approved hydrostatic release unit that will be activated at a set water pressure.

Third paragraph:

There shall be flotation equipment on board for everyone, i.e. lifejackets, inflatable lifejackets, flotation suits or survival suits. The companies will determine the best alternative for their operations. The company must also consider if the flotation equipment shall be worn during a regular voyage or if it according to the risk management will be a life-saving appliance to wear when evacuating the wooden ship.

If the flotation equipment does not provide thermal protection, there must be thermal suits (TPA) for all persons on board. Please note that all required equipment pursuant to this section is for emergency use. This equipment is not supposed to be used during normal operation.

Fourth paragraph

Security requirements applicable to a man overboard situation are based on the provisions that apply for passenger ships of less than 24 metres in length engaged on domestic voyages¹⁵. "A device that makes it possible to recover a helpless person from the water" may for example be a rescue frame. However, the company may choose the most appropriate equipment for their ship.

We are familiar with the fact that some companies use an accompanying vessel when sailing with an open wooden ship. If this accompanying vessel is so designed, equipped and manned to comply with the requirements of this provision, there is nothing in the way of using the accompanying vessel in a man overboard situation. This is provided that the accompanying vessel is operating in the immediate vicinity of the wooden ship and that radio communication is established between the wooden ship and the accompanying vessel.

Fifth paragraph:

The provision of the fifth paragraph continues the requirement that applies to Norwegian passenger ships. You will find a list of approved service stations at sdir.no¹⁶.

Section 13 Equipment for communication

The wording of the proposal was unclear regarding the VHF radio equipment to be established on board. See section 13 (a) and (b) of the proposal. This is corrected in the adopted Regulations by merging the the proposal's (a) and (b). The requirement of the adopted Regulations is that all wooden ships shall be fitted with VHF radio equipment with DSC, and the provision further specifies that the equipment may be hand-held as long as the ship operates in trade area 3 or lesser trade area. VHF equipment with DSC shall be fixed in other trade areas. This is the same requirement that applies to vessels of less than 24 metres carrying 12 passengers or less, cf. the new Regulations, which will also enter into force on 1 February 2020.

On 20 January, the NMA was informed by phone by the Ministry of Trade, Industry and Fisheries that their letter dated 8 January 2020¹⁷ is to be understood in a way that the proposed requirement for wheel-marking of communication equipment will be adjusted to CE-marking. The provision is changed in accordance with the ministry's decision.

¹⁵ Regulations of 1 July 2014 No. 1019 on life-saving appliances on ships, section 9 fifth paragraph

¹⁶ <https://www.sdir.no/en/shipping/vessels/vessel-surveys/approved-service-stations-for-inflatable-life-saving-appliances/>

¹⁷ Ministry of Trade, Industry and Fisheries reference No. 17/4598-17; Norwegian Maritime Authority reference No. 2017/75902-119.

In the adopted Regulations, the suggested requirement for a radio test and a radio safety certificate for radio is removed. The reason for this is partly the general objective of simplification, but first and foremost that the requirement violates the principle of the Regulations that it is the company's responsibility to make sure that all requirements are complied with.

Section 14 Navigation

The Rules of the Road at Sea also apply to wooden ships covered by the Regulations. Safe navigation is one of the most important measures to prevent serious accidents.

First paragraph:

Open wooden ships operate in different regions of the country with many differences in traffic density. The company shall assess the risk of collision and grounding and make sure the ship is well equipped for such incidents.

We recommend that the company considers the need for AIS, radar reflector, radar and other equipment. The company must assess the quality of the chosen equipment and make sure that the risk assessment considers that equipment not bearing the wheel mark may have limitations that make it less capable of compensating for any uncovered risk.

The company's assessments pursuant to the section must be documented.

Second paragraph:

The voyage must be well planned to ensure that it is safe. All voyages shall be planned by means of updated nautical charts and necessary publications, e.g. tide tables and the *Norwegian Pilot Guide – Sailing Directions*. The planning can take place on shore, and it is not necessary to keep nautical publications on board the ship. However, up-to-date official nautical charts must be kept on board for the master's disposal. Nautical charts used with a chart plotter shall be based on chart data from the Norwegian Mapping Authority.

Deviations from the voyage plan may be accepted if the master makes sure that the new plan is in accordance with this provision. The provision that apply to other passenger ships have the following wording: *"If a decision is made, during a voyage, to change the next port of call of the planned route, or if it is necessary for the ship to deviate substantially from the planned route for other reasons, then an amended route shall be planned prior to deviating substantially from the route originally planned¹⁸."*

The voyage plan is intended to be followed during navigation. Therefore, the master must verify the course and position at regular intervals to make sure that the ship does not deviate from the planned route. The company and master must consider which devices should be used to comply with this requirement, such as compass, GPS, etc. The master must be able to verify that the voyage has been monitored during navigation. For example, positions may be logged regularly.

As part of the voyage planning, the master must also check warnings and forecasts of weather and waves. The master must pay attention to the weather and the waves during navigation and make sure that the ship complies with the limitations specified in section 7 and also make sure that the ship is never exposed to conditions that it is not constructed or equipped for.

Section 15 Keeping of log books

The requirement is adapted to the ship type and mode of operation. Authorities and other parties with a legal interest in the ship or voyage may apply for public access to log books. It is, for instance, only natural

¹⁸ Regulations of 27 April 1999 No. 537 on watchkeeping on passenger ships and cargo ships, Appendix A Part 2 item 7.

that the NMA would check the log book when carrying out an unscheduled inspection or an accident related inspection. The log book is part of the company's documentation to prove that the operation is in compliance with the legislation.

Section 16 First-aid equipment

The first-aid equipment requirement must be assessed based on the existing risk factors. For example, the first aid equipment must be designed to stop major bleeding, cool down the skin in case of burns, etc.

Section 17 Muster list and drills

Drills must be executed in the most realistic possible way. The evacuation drill should be carried out in accordance with the company's emergency preparedness procedure, including a review of procedures for the launching of life-saving appliances. However, the inflation of liferafts is not required. Similarly, fire drills shall be carried out in accordance with the company's emergency preparedness procedure but without using smoke and open flames. Fire extinguishers, etc. should not be activated. Procedures must be evaluated. We recommend the use of a "dummy" during man overboard drills which should reflect the size and weight of a person. We discourage the use of persons as markers.

The training record book requirement also applies to other ships and originates from the SOLAS Chapter III/35.

Section 18 Counting and registration of persons on board

The section is a simplified version of the requirement that applies to Norwegian passenger ships. All persons must be counted before departure, and the number must be reported to a person ashore that may pass this information on to the rescue service in the event of an emergency. The number may for example be reported by text message. The number must be accurate and include the number of passengers and crew members.

Section 19 Safety briefing

The provision is a continuation of the requirement for a safety briefing pursuant to the current legislation for ordinary passenger ships. The safety briefing may be given before the passengers embark on the ship.

Section 20 Qualification requirements and manning

As a result of the requirement for training and documented earning of seagoing service of the D5 certificate, the NMA has considered this certificate requirement as somewhat strict for the group of ships pursuant to the Regulations. Coast organisations and associations normally do voluntary work and may therefore have issues complying with the requirements for a D5 certificate. To be a master you need a Certificate for Deck Officer Class 5 Pleasure Craft and a restricted safety course pursuant to the Qualification Regulations¹⁹ sections 8 and 29.

There is a minimum requirement of 150 hours seagoing service for masters of the relevant ship type. This does not stop shipping companies from requiring more hours of seagoing service as minimum training based on their risk assessments.

Everyone working on board must have adequate safety familiarisation, cf. first paragraph (f). Safety familiarisation means training as referred to in the Regulations of 22 December 2011 No. 1523 on qualifications and certificates for seafarers sections 7 (a) to (f).

¹⁹ Regulations of 22 December 2011 No. 1523 on qualifications and certificates for seafarers.

The third paragraph sets out that for each liferaft on board, at least at one member of the crew must have completed a restricted safety course. The NMA points out that the company is responsible to determine whether the ship is manned with a sufficient number of qualified persons.

The master and a sufficient number of crew members shall have experience in the use of sails and rigging on the respective ship. On 13 July 2019, there was an incident involving a viking ship replica. A boom fell down, and a woman was injured. This shows that it this type of experience is important. The crew must be able to use sails and rigging without assistance from the passengers. This is not to prevent the passengers from participating in sailing or rowing but to ensure that the crew can operate the ship if required.

Section 21 Exemptions

The Norwegian Maritime Authority may exempt a ship from one or more of the requirements of the Regulations when the company applies for an exemption in writing. Whoever applies for an exemption must convince the NMA that the suggested solution is in compliance with the regulatory requirements. The application must contain information and justifications which the NMA will assess, taking into account the considerations and interests that the applicable requirements are meant to look after. Documentation of completed tests of such alternative solutions may be an example of how to meet this requirement.

Companies applying for exemptions are not entitled to have these granted even if the terms of the exemption provision are satisfied. The starting point is that the requirements of the Regulations shall be met. Only in extraordinary cases, where warranted by valid grounds, will there be an opening for making a decision to exempt.

There are two possibilities for granting exemptions, cf. (a) and (b).

Pursuant to (a) the criteria are as follows: *"it is established that the requirement is not essential and that the exemption is justifiable in terms of safety"*

That the requirement is not essential means that the requirement concerned is considered to be less essential when compared to the extraordinary reasons forming the basis for an exemption. An exemption pursuant to (a) may only be granted if a waiver of the requirement concerned will still provide a solution considered overall justifiable in terms of safety. The exemption pursuant to (a) will also be relevant in the particular cases where, due to the general wording of the requirements, it is difficult to make the regulatory requirement applicable to the ship in question.

With regard to the term *"justifiable in terms of safety"*, assessments must take into account the safety of life and health, environment and material values.

Pursuant to (b) the criteria are as follows: *"it is established that compensating measures will maintain the same level of safety as the requirement of these Regulations"*

The term *"compensating measures"* is relatively wide, and may include a number of measures, including innovative measures, as long as they are considered to maintain the same level of safety as the requirement(s) of the Regulations.

Section 22 Entry into force

Wooden ships already sailing with an exemption may comply with the instructions from the Ministry until the Regulations enter into force on 1 February 2020.

The companies must comply with the regulations currently in force and adjust to new regulations that are adopted. Since these Regulations are tailored to the specific ship type, it is to be expected that the companies will satisfy the requirements without further ado.

Economic and administrative consequences

For open wooden ships carrying more than 12 passengers, the new rules have been significantly simplified from previous legislation. The requirements for equipment are not as strict as before. The purpose of the amendments is to make it easier for companies with open wooden ships to carry passengers for commercial purposes and subsequently generate funds for maintenance and conservation of the ship. As a compensating measure for this, certain operational limits apply to ensure safety. However, it is important to know that the overall safety level for open wooden ships is below the safety level that applies for the ordinary operation of passenger ships. The companies must be aware of this when implementing their safety management system.

In accordance with the Regulations, the company is no longer obliged to request certification for open wooden ships carrying more than 12 passengers. This means a considerable financial relief for the companies. However, it also means that the companies must be more aware of their responsibility to ensure compliance with the Ship and Security Act with appurtenant regulations. It is not an option to lean back and wait for the NMA to point out any defects and deficiencies that need to be rectified. Companies that have already established a good safety culture and sound internal operating procedures will most likely not be affected by this.

Amendments to other regulations

Regulations of 21 April 2017 No. 515 on accommodation, recreational facilities, food and catering on ships

The Maritime Labour Convention 2006, implemented into Norwegian legislation by the Regulations of 21 April 2017 No. 515 on accommodation, recreational facilities, food and catering on ships, does not apply to "ships of traditional build such as dhows and junks", cf. Article II No. 4. The NMA will use this scope of action to exempt wooden ships carrying more than 12 passengers from the scope of application of the Regulations on accommodation, recreational facilities, food and catering on ships.

Regulations of 22 December 2014 No. 1893 on supervision and certificates for Norwegian ships and mobile offshore units

Pursuant to section 20, a Passenger Certificate is required for ships carrying more than 12 passengers. Ships complying with the Regulations on open wooden ships carrying more than 12 passengers shall not be certified, and section 20 of the Certificate Regulations is amended to exempt these vessels from the certification requirement.

Lars Alvestad
Acting Director General of Shipping and Navigation

Linda Bruås
Acting Head of Department

Attachment:

- Regulations on open wooden ships carrying more than 12 passengers