

4. Application of Section 18 of Code

- (1) Subject to subregulation (2), the provisions of Section 18 of the Code are incorporated in these regulations and shall extend and apply to and in respect of all hire and drive vessels and voyages of hire and drive vessels.
- (2) The incorporation and application of Section 18 of the Code by subregulation (1) is subject to the following modifications —
 - (a) in clause 1.2 —
 - (i) paragraphs 1, 2 and 3 shall be deleted;
 - (ii) paragraph 6 is amended by inserting after “devices” the following —

“ and includes paddle boats of the foot or hand-driven types ”; and
 - (iii) for paragraph 8, there shall be substituted the following —

“ 1.2.8 The term “Houseboat” means any vessel or pontoon that is held or let —

 - (a) as a place of habitation whether such use be temporary, intermittent or permanent;
 - (b) as a place for accommodating or receiving persons for purposes of shelter, recreation, entertainment or refreshment; or
 - (c) as club or business premises,

but does not include a vessel being temporarily used for any of the purposes in subparagraphs (a), (b) or (c) of this paragraph if the vessel is normally employed in carrying goods or passengers, or both, for reward or plying for hire for the carriage of goods or passengers, or both. ”;
 - (b) in clause 2.4 —
 - (i) by inserting at the end of paragraph 1 the following —

“ Penalty: \$500. ”;
 - (ii) for paragraph 2 there shall be substituted the following paragraphs —

“ 2.4.2 The owner of a hire and drive vessel shall not allow that vessel to be hired out unless the equipment required by clause 2.2 is on board the vessel and, if necessary, secured to the vessel.

Penalty: \$500. ”

“ 2.4.3 The hirer of a hire and drive vessel shall at all times keep the equipment on board the vessel, and if necessary, secured to the vessel and shall, on demand by an authorized person, produce the equipment for his inspection.

Penalty: \$500. ”;
 - (c) clause 2.5 shall be deleted;

(d) for the heading above clause 3.1, the following shall be substituted —

“ PART 3 — LICENSING OF OWNERS AND
REGISTRATION AND INSPECTION OF VESSELS ”;

(e) for clause 3.1, the following shall be substituted —

“ 3.1 Owners to be licensed and Hire and Drive vessels to be Registered

3.1.1 The owner of a hire and drive vessel shall not allow that vessel to be hired out unless —

- 3.1.1 (a) he is licensed under this Part as the owner of the hire and drive vessel;
- 3.1.1 (b) current registration has been issued by the Authority for the vessel; and
- 3.1.1 (c) a registration plate or equivalent is displayed on the vessel or the vessel is marked in accordance with directions given under 3.3.2.

3.1.2 (1) Before a vessel is used as a hire and drive vessel the owner shall —

- 3.1.2 (1) (a) make an application to the Authority for a licence as the owner of the hire and drive vessel; and
- 3.1.2 (1) (b) pay to the Authority the fee of \$262.90, which shall, if the application is approved, include the issue of the licence and is not refundable if the application is not approved.

3.1.2 (2) A licence as the owner of a hire and drive vessel is valid for 1 year and may be renewed annually on the payment to the Authority of a renewal fee of \$37.

3.1.2 (3) Where a person has acquired an existing hire and drive operation, that person shall be entitled to carry on that operation —

- (a) if the person makes an application for a transfer of the existing licence;
- (b) upon payment of a transfer fee of \$130.90 to the Authority; and
- (c) provided the person operates the hire and drive operation from the same location and complies with all existing conditions of the licence.

3.1.3 Upon receiving an application and payment of the fee referred to in clause 3.1.2, the Authority may issue a licence to the owner of a hire and drive vessel and may attach conditions to the licence as to any or all of the following matters:

- 3.1.3 (a) the approval of a public or local authority having responsibility for the management of the land above high water in the area where the vessel is intended to be operated or the waters where the vessel is intended to be operated;
- 3.1.3 (b) the limits of the area where the vessel may be hired;

- 3.1.3 (c) compliance with any or all of the requirements of clause 4.4 below;
- 3.1.3 (d) the suspension of hire operations in the event of the existence of specified wind or weather conditions;
- 3.1.3 (e) the provision of a suitable rescue craft, registered under the Act, available for immediate use at all times when a vessel is hired;
- 3.1.3 (f) continuous surveillance of vessels on hire;
- 3.1.3 (g) the maximum number of vessels which may be hired out;
- 3.1.3 (h) survey requirements and the payment of survey fees;
- 3.1.3 (i) the provision of life jackets or aids to buoyancy and their use by hirers;
- 3.1.3 (j) the regulation of the use of hired vessels;
- 3.1.3 (k) the possession by the owner, or other person who is to teach or instruct, of the appropriate Yachting Association Certificate or other qualification approved by the Authority where, as part of the hiring operation, the owner or some other person professes to teach or instruct in sailing or sailboarding;
- 3.1.3 (l) the register book referred to in clause 4.1 below; and
- 3.1.3 (m) the temporary or permanent variation of conditions by the Authority on payment of a variation fee of \$50.60.

3.1.4 Every licence issued subject to conditions shall contain a statement to the effect that the failure of owners to comply with the conditions of a licence may constitute an offence under Section 55 of the Act.

3.1.5 In the event that the holder of a licence as owner of a hire and drive vessel is or has been convicted of an offence concerned with or related to the hire of vessels, the Authority may suspend or cancel his licence. ”;

(f) after clause 3.3.1, the following shall be inserted —

“ 3.3.2 Notwithstanding 3.3.1(c) above, the Authority, instead of issuing a registration plate or equivalent as required by 3.3.1(c), may direct the owner of the vessel to paint or otherwise mark on the vessel an identification number, the maximum number of persons that the vessel is registered to carry and the word “HIRE” on the part of the vessel and in the manner specified in the direction. ”;

(g) for the heading to clause 3.4 the following shall be substituted —

“ Display of Registration Plate or Identification Number ”;

(h) for clause 3.4.1, the following shall be substituted —

“ 3.4.1 A registration plate or equivalent issued in accordance with 3.3.1(c) above shall be firmly affixed in a conspicuous position on the hire and drive vessel.

Penalty: \$500.

3.4.2 The owner of a hire and drive vessel shall comply with a direction given to him by the Authority under 3.3.2 and shall maintain the relevant markings on the vessel in clear and legible condition.

Penalty: \$500. ”;

- (i) clause 3.10 shall be deleted;
- (j) for the heading to clause 3.11, the following shall be substituted —
 - “ Vessels without Registration or Survey Certificate”;
- (k) in clause 3.11.1 —
 - (i) after “current registration” there shall be inserted the following —
 - “ or current survey certificate ”; and
 - (ii) after “equivalent” there shall be inserted the following —
 - “ or mark ”;
- (l) after 3.12.1, the following shall be inserted —
 - “ Penalty: \$500. ”;
- (m) in clause 3.13 —
 - (i) for paragraph 1, the following shall be substituted —
 - “ 3.13.1 The owner of a hire and drive vessel shall make a report in writing to the Authority concerning any accident or damage affecting the seaworthiness of a vessel or any death or injury to a person. ”;
 - and
 - (ii) after paragraph 2, the following shall be inserted —
 - “ Penalty: \$500. ”;
- (n) in clause 4.1.1, for “The owner of a hire and drive vessel” there shall be substituted —
 - “ Where the owner of a hire and drive vessel is so required as a condition of his licence, he ”;
- (o) after 4.2.2, the following shall be inserted —
 - “ Penalty: \$500. ”; and
- (p) after 4.3.1(b), the following shall be inserted —
 - “ Penalty: \$500.

4.3.2 Subject to 4.3.3,

- (a) a person under the age of 17 years shall not drive or operate a hire and drive vessel which is a mechanically propelled vessel capable of or designed for a speed in excess of 12 knots;
- (b) the owner or the hirer of a vessel referred to in paragraph (a) above, shall not knowingly permit or suffer the vessel to be driven or operated by a person under the age of 17 years.

Penalty: \$300.

- 4.3.3 The provisions of 4.3.2 do not apply to or in relation to the driving or operation of a vessel by a person who is not less than 14 years of age and is accompanied in the vessel by a person not less than 21 years of age. ”.

[Regulation 4 amended in Gazette 12 August 1988 p. 2714; 1 August 1990 p. 3644; 26 July 1991 p. 3928; 30 June 1992 p. 2906; 29 June 1993 pp. 3185-6; 14 June 1994 p. 2487; 11 July 1995 p. 2948; 25 June 1996 p. 3000; 27 June 1997 p. 3142; 12 May 1998 p. 2791; 20 June 2000 p. 3063.]