



REPUBLIC OF SAN MARINO

DELEGATED DECREE No. 151 of 26 October 2023

**We Captains Regent
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 Delegated Decree No. 75 of 3 May 2022;

Having regard to the resolution of the Congress of State No. 18 adopted during its meeting held on 24 October 2023;

Having regard to Article 5, paragraph 2, of Constitutional Law No. 185/2005 and to 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 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 pleasure boats)

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 to 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 d *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 and/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 and/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 vessel;
 - d) remove the ship from the register.
- Said powers may also be exercised cumulatively".

Art. 6

(Amendments to Article 58 of Law No. 120/2019)

1. Article 58 of Law No. 120/2019 shall be 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) seafarer's name and surname;
 - b) place and date of birth;
 - c) place and date of embarkation;
 - d) place and date of disembarkation;
 - e) employment contract details;
 - f) the reason for disembarkation (end of contract, transfer to another vessel of the same shipping company, illness, accident or other reasons).

Said list must be signed by the ship's Master".

Art. 7

(Insertion of Title XII-bis

Professional maritime qualification for command of recreational crafts deployed 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 COMMAND OF RECREATIONAL CRAFTS
DEPLOYED FOR COMMERCIAL ACTIVITIES (COMMERCIAL YACHTS)

Art. 76-bis
(Purpose)

1. The provisions of this Title govern the issuance of professional qualifications for command and operation of recreational crafts deployed for commercial activities.

Art. 76-ter
(Definitions)

1. For the purposes of the application of the provisions of this Title, the following definitions shall apply:
 - a) Coastal trip: a trip in which the unit does not stray more than 60 miles from a mooring;
 - b) Certificate of Competency (hereinafter also CoC for the sake of brevity): certificate of competency referred to as "Commercial Yachts Master", for coastal trips;

- c) Commercial Yacht Master: a person qualified to command commercial yachts for units not exceeding 500 GT for coastal trips;
- d) STCW 78/95 International Convention: International Convention on Standards of Training Certification and Watchkeeping for Seafarers;
- e) IMO: International Maritime Organisation;
- f) Maritime Education and Training Centres: the centres where the specialised courses provided for by the STCW Convention are held for maritime personnel providing specialised training courses on the basis of the training requirements set out in the STCW Convention and related code, recognised by the Authority on the basis of the results of an Audit, in accordance with the principles of ISO standardisation rules and with the procedures established by the Authority;
- g) Recreational crafts for commercial use: as defined by the technical reference codes, referred to as "Yacht codes" for crafts shorter than 24 metres and longer than 24 metres;
- h) Length: the length of the unit as defined by the 1966 International Convention on Load Lines concluded in London on 5 April 1966.

Art. 76-quater

(Command and Operation of Recreational Crafts for Commercial Use and Certificate of Competency)

1. Recreational crafts used for commercial purposes, up to 500 GT - Gross Tonnage - used for the transport of up to twelve passengers, may be commanded by Masters holding Certificates of Competency in accordance with the requirements set out in Article 76-quinquies.
2. The Certificate of Competency for command and operation of recreational crafts is issued in accordance with the criteria of the STWC 78/95 International Convention, as amended, as a Certificate equivalent to the Certificate of Competency for Masters qualified for navigation on near-coastal trips, in line with the principles laid down in Article IX and Regulation II/3 of the same Convention. Said certificate is issued on a special "Form" drawn up in accordance with STCW regulations and regulated by a special policy of the Authority to the aforementioned STCW Convention and is notified to the IMO, pursuant to Article IX, paragraph 2, of the aforementioned STCW Convention.

Art. 76-quinquies

(Requirements for obtaining the Certificate of Competency)

1. Personnel wishing to obtain a Certificate of Competency must be at least twenty years of age and physically fit according to the criteria set out in the International MLC (Maritime Labour Convention, 2006) and must also meet one of the following requirements:
 - a) completion of twelve months of navigation on merchant ships as an officer qualified to serve as a navigational watchkeeper;
 - b) authorisation, without limitation, to command recreational crafts of up to 24 metres in length since at least five years;
 - c) qualification to command recreational vessels of 24 metres or more in length since at least five years.

Maritime professional qualifications obtained abroad will be assessed by the Authority on a case-by-case basis, according to the equivalence principle with respect to the curricula required for obtaining the qualification under letters b) and c).

2. Personnel interested in obtaining the aforementioned Certificate of Competency (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 qualification to operate commercial yachts not exceeding 24 meters in length and 500 GT:
 - 1) Basic and advanced fire-fighting training;

- 2) Survival at sea;
 - 3) PSSR – Personal safety and social responsibility;
 - 4) First aid;
 - 5) Security Awareness;
 - 6) GMDSS (restricted operator certificate – ROC).
- b) For qualifications to operate commercial yachts of 24 metres or more and not exceeding 500 GT:
- 1) Basic and advanced fire-fighting training;
 - 2) Survival at sea;
 - 3) First aid;
 - 4) Security Awareness;
 - 5) GMDSS (restricted operator certificate – ROC);
 - 6) Radar Base and ARPA;
 - 7) PSSR – Personal safety and social responsibility.
3. Upon completion of the aforementioned courses, the applicants shall take a theoretical examination in accordance with the examination programme set out in Annex A to this law.

Article 76-sexies

(CoC - Certificate of Competency for commanding recreational crafts for commercial use)

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

Article 76-septies

(Licensed Navigation Officer for commercial recreational crafts up to 500 GT - gross tonnage)

1. Personnel holding the title of "Commercial Yacht Master" for units not exceeding 24 metres in length may embark as navigating officers, on watch duty, on units of 24 metres or more in length and less than 500 GT.

Article 76-octies

(Examinations)

1. The examinations for the above-mentioned Certificates of Competency 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;
 - 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 decree must submit an 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 may be held, upon request, at the applicants' premises, also outside San Marino territory; travel and mission expenses for the members of the examination board shall be borne by the applicants.

Article 76-novies

(Validity of the CoC)

1. The Certificate of Competency shall remain valid for five years and it may be renewed, if this period includes at least one year of actual navigation on board merchant ships or commercial yachts deployed in coastal trips.
2. The Certificate of Competency may be renewed in relation to the periodic validity of the training courses provided for in Article 76-*quinquies*, paragraph 2, as established by the STCW International Convention.
3. The CoC Certificate is suspended by the Authority if, as a result of the periodic health assessment provided for in the MLS Convention, 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, operation 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.
4. Certificate revocation may occur in the following cases:
 - a) loss of physical fitness;
 - b) death of the person concerned.

*Article 76-decies
(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)

1. The following Annex A is added to Law No. 120/2019:

"ANNEX A to Law No. 120 of 2 August 2019

**EXAMINATION PROGRAMME FOR THE ATTAINMENT OF THE QUALIFICATIONS FOR
COMMANDING AND OPERATING RECREATIONAL CRAFTS FOR COMMERCIAL USE:**

- A) For qualifications to operate commercial yachts not exceeding 24 meters in length and 200 GT:
 1. Theoretical test:
 - a) duties and responsibilities of the Master;
 - b) preparation of the navigation plan and practical solving of a cruising problem, using the reference nautical chart;
 - c) assessment of marine weather conditions, prior to sailing and while sailing;
 - d) knowledge of nautical publications;
 - e) knowledge of how to operate 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, ship abandonment, man overboard);
 - i) knowledge of passenger security information techniques;
 - j) knowledge of manoeuvring procedures, during navigation and when entering and leaving ports;

- k) knowledge of the English language, as ascertained during the examination itself, which will also be held in English;
 - l) knowledge of international anti-pollution regulations (Marpol).
- B) For qualifications to operate commercial yachts of 24 meters or more and less than 500 GT:
- 1. Theoretical test:
 - a) duties and responsibilities of the Master;
 - b) preparation of the navigation plan and practical solving of a cruising problem, using the reference nautical chart;
 - c) assessment of marine weather conditions, prior to sailing and while sailing;
 - d) knowledge of nautical publications;
 - e) knowledge of how to operate 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, ship abandonment, man overboard);
 - i) knowledge of passenger security information techniques;
 - j) knowledge of manoeuvring procedures, during navigation and when entering and leaving ports;
 - k) knowledge of the English language, as ascertained during the examination itself, which will also be held in English;
 - l) knowledge of international anti-pollution regulations (Marpol)".

Art. 9
(Repeals)

1. Delegated Decree No. 75 of 3 May 2022 and Delegated Decree No. 130 of 8 September 2023 are hereby repealed. The effects produced during their validity are not affected.

Issued from Our Residence, this 26th of October 2023/1723 since the founding of the Republic.

THE CAPTAINS REGENT
Filippo Tamagnini – Gaetano Troina

THE SECRETARY OF STATE
FOR HOME AFFAIRS
Gian Nicola Berti

[QR Code]

<https://www.bollettinoufficiale.sm/on-line/RicercaBU?operation=getDocBU&id=d452871d7b41d10402c97984156a48d89bc5100f>