

# **Ministerial Draft**

## **of the Federal Ministry for Digital and Transport**

### **First Ordinance Amending Ship Safety Rules**

#### **A. Problem and objective**

The German rules on ship safety must reflect the latest technology and allow for new international and European requirements, and within the legislative room for manoeuvre that remains at national level, Germany's current regulatory needs must be satisfied while maintaining proportionality. The aim is to ensure a safe, sustainable and efficient German merchant fleet.

The following amendments are therefore to be made to the ship safety rules:

- Special rules for public authority vessels: enable own survey regime internal to authorities (§ 6 of the Ship Safety Ordinance (SchSV)) and exemption from the AIS obligation (§ 13(2) subparagraph 4a SchSV)
- Magnetic compass adjustment: Reduce red tape by removing State appointment of adjusters (§ 8(3) and Annex 1 C.I.4 SchSV and § 6.02 Annex III Inland Waterway Vessel Inspection Code (BinSchUO))
- Certificate of equivalence: Deregulate coastal shipping by abolishing prior official authorisation for foreign-flagged vessels, also in view of the EU freedom to provide services (§ 9(6) and Annex 1 D.III SchSV)
- Revision of conduct obligations and elements of administrative offences (§ 13 and § 14 SchSV) as well as jurisdiction to prosecute and punish these
- Marine equipment: Delete reference to Directive 96/98/EC which is no longer in force and its subsection (Annex 1 A.I. SchSV)
- Damage stability and fire safety for passenger ships under 24 metres in length: Adaptation of the national provisions due to Delegated Regulation (EU) 2020/411 (Part 1 of Annex 1a SchSV)
- Helgoland: Establishment of safety requirements for passenger ships in the recently extended port area (new Part 1a of Annex 1a SchSV)
- Ship-related safety standard for cargo ships: extensive new rules, in particular for small craft, including 'water taxis', offshore service vessels and concerning load lines (Parts 6 and 7 of Annex 1a SchSV)
- Tidal flat shipping on the Wadden Sea: Bring regulations in line with the amendment of the EU Passenger Ship Directive 2009/45/EC (Annex 1 A.II.1 and Appendix to Annex 1 SchSV)
- Traditional ships: Extension of transitional periods (Part 3 of Annex 1a SchSV)

## **B. Solution; benefits**

**B.1 Solution:** Adoption of an ordinance amending the SchSV and consequential amendments.

**B.2 Benefits:** The attractiveness of the German flag is increased by simplifying administrative procedures and by modernising national ship-related safety requirements.

## **C. Alternatives**

Instead of maintaining the existing requirement for equivalence checks with respect to foreign-flagged vessels in coastal shipping for those that are not covered by the EU freedom to provide services, the current official authorisations for all foreign-flagged vessels in coastal shipping are being abolished.

## **D. Budgetary expenditure exclusive of compliance costs**

As a result of the introduction of a survey and certification obligation for small craft under 8 metres in length, preliminary estimates indicate that revenue of approximately EUR 393 000 per year will be generated for the Federal Government from fees. Of this, approximately EUR 10 000 will be accrued to budget section 12. The remaining fees will be received by the Ship Safety Division of the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication (BG Verkehr) in accordance with § 6(5) of the Maritime Shipping Responsibilities Act (SeeAufgG).

## **E. Compliance costs**

### **E.1 Compliance costs for citizens**

None.

### **E.2 Compliance costs for businesses**

For businesses, there will be a change in annual compliance costs of EUR 125 000, mainly due to the introduction of certification and survey procedures for small craft. There is a one-off saving of around EUR 234 000 from the new fire safety regulation for harbour tugs under 300 gross tonnage.

Of which administrative costs arising from obligations to provide information

1310 will be saved annually as a result of the abolition of the questionnaire currently required for equivalence checks. In accordance with the Federal Government's 'one in, one out' rule, the difference in the annual compliance costs of EUR 123 690 will be compensated through other legislation proposed by the Federal Ministry for Digital and Transport.

### **E.3 Compliance costs for the authorities**

At federal level, the authorities will incur annual compliance costs of around EUR 1.4 million, arising, in particular, from the introduction of a certification and survey obligation for small craft.

## **F. Other costs**

Public-law fees will be payable for the issue of a safety certificate for small craft with a length of 3.60 m to 8 m. According to preliminary estimates, these will amount to approximately EUR 393 000 per year.

# Ministerial Draft of the Federal Ministry for Digital and Transport

## First Ordinance Amending Ship Safety Rules<sup>1)2)</sup>

Dated ...

The Federal Ministry for Digital and Transport,

- by virtue of § 7(1), § 7a(3), § 9(1), first sentence, subparagraphs 3, 3a, 3b, 4, 6 and 7, also in conjunction with the second sentence and with regard to the first sentence subparagraph 4 in conjunction with the third sentence, and § 9(3), in each case also in conjunction with § 9c of the Maritime Shipping Responsibilities Act as published on 17 June 2016 (Federal Law Gazette (BGBl.) I p. 1489), of which § 7, § 7a(3), § 9(1), first sentence and (3) were amended by Article 2(2) of the Act of 14 March 2023 (BGBl. I No 73),
- by virtue of § 3(1) subparagraph 2 of the Inland Shipping Responsibilities Act as published on 20 March 2023 (BGBl. 2026 I No 82),
- by virtue of § 36(3) of the Act on Administrative Offences as published on 19 February 1987 (BGBl. I p. 602), as last amended by Article 1(5)(b) of the Act of 26 January 1998 (BGBl. I p. 156), and
- by virtue of § 22(4), first sentence, in conjunction with paragraph (1) of the Act on Fees and Expenses for Federal Services of 7 August 2013 (BGBl. I p. 3154), issues the following Ordinance:

### Article 1

#### Amendment to the Ship Safety Ordinance

The Ship Safety Ordinance of 18 September 1998 (BGBl. I p. 3013, 3023), as last amended by Article 2 of the Ordinance of 3 March 2020 (BGBl. I, p. 412), is amended as follows:

1. In § 6, the following paragraphs (1a) and (1b) are inserted after paragraph (1):

‘(1a) Paragraph (1) subparagraph 6 shall apply to

1. a ship within the meaning of § 3(c) of the Flag Act or

2. a ship used for the performance of public authority tasks under the supervision of the Federal Government, a federal state (Land) or a municipality or a municipal association, and not serving commercial purposes,

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<sup>1</sup> )Article 1(12) of this Ordinance transposes Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (Recast) (OJ L 163, 25.6.2009, p. 1), as last amended by Delegated Regulation (EU) 2022/1180 (OJ L 184, 11.7.2022, p. 1).

<sup>2</sup> )The obligations arising from Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1) have been met.

only insofar as the operator of the ship makes an application pursuant to § 9(3), first sentence, subparagraph 2, for the issue of all the necessary certificates and acknowledgements. An application for the issue of only some certificates and acknowledgements shall not be permitted.

(1b) If no application within the meaning of the first sentence of paragraph (1a) is made, the authority responsible for the ship referred to in paragraph (1a) subparagraph 1 or 2 shall ensure, on its own responsibility, by means of surveys and other appropriate measures, that the ship concerned

1. offers a level of safety comparable to the requirements prescribed by the international ship-related safety standard, the Ship Safety Act and the Maritime Shipping Responsibilities Act, and
2. guarantees the prevention of dangers to ships, shipping or shipping facilities, health, the coast or the environment.

In the case referred to in the first sentence, § 11 shall not apply.'

2. § 7(1), first sentence, subparagraph 2 is worded as follows:

1. ' in application of § 13(6) or'.

3. § 8 is worded as follows:

#### § 1'

#### Functioning of marine equipment

Marine equipment which, prior to being used on board ships flying the German flag, has been inspected by the competent body or by an organisation recognised by the competent body shall, after successful inspection, receive an acknowledgment stating the date until which the required functionality, in particular measurement accuracy and display accuracy, can be expected if there are no changes to the equipment. The ship owner shall ensure that, before the date referred to in the first sentence, a re-inspection is carried out by the competent body or by an organisation recognised by the competent body for equipment that is used and requires approval.'

4. § 9 is amended as follows:

- a) Paragraph (1) is worded as follows:

(1) ' Surveys and certification shall be carried out in accordance with the International Maritime Organisation's Survey Guidelines under the Harmonised System of Survey and Certification (HSSC), most recently laid down in Resolution A.1156(32) of 15 December 2021 (Official Journal of the Ministry for Digital and Transport/Transport Gazette (VkBli.) 2022 p. 833), as amended.'

- b) Paragraph (6) is repealed.

- c) The current paragraph (7) becomes paragraph (6) and is worded as follows:

(1) ' The presentation and remedial measures referred to in paragraph (4) shall be carried out without delay if, for a ship engaged in maritime navigation, proof of validity within the meaning of paragraph (4) is not provided upon official request.'

d) The current paragraphs (8) and (9) become paragraphs (7) and (8)

5. § 12(2) is worded as follows:

(1) ' To the extent that the requirements and obligations of the international regulations do not apply to a foreign-flagged ship, the competent authorities shall ensure that the ship does not manifestly constitute an imminent danger to ships, shipping or shipping facilities, health, the coast or the environment.'

6. § 13 shall be amended as follows:

a) Paragraph 1 shall be amended as follows:

a%6) Subparagraph 1 is worded as follows:

1. ' after marine casualties, after events that are reportable under § 7(2) of the Ordinance on the Safety of Maritime Shipping, or after significant changes to the ship or its equipment, which impair the approved condition, including while under construction, and, in particular, which manifestly impair the effectiveness or safety of operations,

a) the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication is informed thereof without delay,

b) the proper repair is arranged without delay,

c) the impairment-free approved condition is restored without delay in order to preserve the approval, and

d) restoration of the impairment-free approved condition is demonstrated to the competent authority without delay,'.

b%6) Subparagraph 4 is replaced by the following subparagraphs 4 and 5:

1. ' in the cases referred to § 9(3) first sentence, paragraph (4) first sentence and paragraph (5), a valid ship safety certificate or a valid acknowledgment is carried, and

2. facilities and pieces of equipment, as specified in the safety certificate, are on board and are in a proper, functional and approved condition.'

b) Paragraph (2) is amended as follows:

a%6) Subparagraph 4a is worded as follows:

'4a. on a ship which is equipped with an Automatic Identification System (AIS), this is properly kept in operation at all times in accordance with Chapter V Regulation 19.2.4 of the Annex to the SOLAS Convention, cited in Section A.I of the Annex to the Ship Safety Act, and in accordance with the guidelines laid down by the International Maritime Organisation in its Resolution A.1106(29) of 14 December 2015 (VkBl. 2022 p. 576), by ensuring that

a) the AIS is continuously switched on at the high rated power level during normal operation in accordance with the provisions mentioned above,

- b) without prejudice to the notification obligation under § 58(3) of the Navigable Maritime Waterways Code, sends the AIS data in full, and
- c) the low rated power level is set only if a reduction of transmission power to 1 watt is permitted for the marine VHF radio equipment,.

b%6) Subparagraph 11 is worded as follows:

- 1. ' logbooks are carried and all incidents on board which are of particular importance for maritime safety, including environmental protection at sea and health and safety, are reported without delay in the logbook by appropriate entries, taking into account the list of events requiring entry as published in accordance with Section B.II Point 7 of Annex 1, '.

c%6) In subparagraph 12, the comma and the words 'the inspection acknowledgment issued pursuant to § 9(4) sixth sentence' are deleted after the words 'prescribed safety certificate'.

c) After paragraph (2), the following paragraph (2a) is inserted:

'(2a) Masters of a ship in public service shall be exempt from the conduct obligation laid down in paragraph (2) subparagraph 4a, insofar as this is urgently necessary for the performance of public authority tasks, taking account of public safety and public order.'

d) Paragraph (3) subparagraph 4 is worded as follows:

- 1. ' within the meaning of Part A Chapter VIII/2 No 25 of the Appendix to the Annex to the STCW Convention, to check the steered course, position and speed of the ship at short intervals adapted to the specific traffic situation, and to use the prescribed and available navigation aids in doing so; this shall also apply if the ship is under pilot guidance.'

e) Paragraph (4) is worded as follows:

(1) ' The chief engineer of a ship flying the German flag shall ensure that, in consultation with the master, there is safe technical watchkeeping within the meaning of Part A Chapter VIII/2 No 53 of the Appendix to the Annex to the STCW Convention.'

7. § 14 shall be amended as follows:

a) Paragraph 1 shall be amended as follows:

a%6) Subparagraph 1 is amended as follows:

a%7%7) Letter (a) is worded as follows:

- a) ' contrary to § 13(1) subparagraph 1 letter (a), (b) or (d), fails to ensure that information is provided, that the repair referred to therein is organised or that the restoration of a condition referred to therein is demonstrated, '.

b%7%7) In letter (c), the word 'or' is replaced by a comma.

c%7%7) In letter (d), the words 'the ship safety certificate, the inspection acknowledgement or the acknowledgment referred to in § 9(5) is

present,' are replaced by the words 'a ship safety certificate or an acknowledgment is carried, or'.

d%7%7) After letter (d), the following letter (e) is inserted:

a) ' contrary to § 13(1) subparagraph 5, fails to ensure that a facility or piece of equipment is in a condition specified therein,'.

b%6) In subparagraph 2 letter (m), after the words 'the safety certificate', the comma and the words 'the inspection acknowledgment' are deleted.

b) In paragraph (2), the words 'letter (a) to (d)' are replaced by the words 'letter (a) to (e)'.

c) Paragraph (3) is amended as follows:

a%6) In subparagraph 1, the words 'subparagraph 1 letter (a) and (d), subparagraph 1a, subparagraph 2 letter (a), (b), (d), (e), (h), (j), (l), (m) and (n) and subparagraphs 3 and 4 to the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication' are replaced by the words 'subparagraph 2 letter (e) and subparagraph 3 to the Directorate-General for Waterways and Shipping,'.

b%6) In subparagraph 3, the words 'Directorate-General for Waterways and Shipping' are replaced by the words 'German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication'.

8. § 17 is worded as follows:

## § 1'

### Reference to technical rules and regulations

Where reference is made in or on the basis of this Ordinance to DIN, DIN EN and DIN EN ISO standards, these are as published by Beuth-Verlag GmbH, 10722 Berlin. They are archived securely at the German Patent and Trade Mark Office.'

9. Annex 1 is amended as follows:

a) Section A is amended as follows:

a%6) Subsection A.I is repealed.

b%6) Subsections A.II to A.IV become subsections A.I to A.IV.

b) In Section C, Subsection C.I.4 is amended as follows:

a%6) The first sentence of point 2 is worded as follows:

'On large recreational craft within the meaning of § 2(1) subparagraph 3 of the Maritime Recreational Craft Ordinance with a gross tonnage under 150 which are not used commercially for sports or pleasure purposes within the meaning of § 2(1) subparagraph 2 of the Maritime Recreational Craft Ordinance, Regulation V/18 shall apply to the navigation equipment carried in accordance with subparagraphs 2.1.1, 2.1.4, 2.1.5 and 2.1.7 of Regulation V/19 of the Annex to the SOLAS Convention'.



b%6) After subparagraph 3, the following subparagraph 4 is inserted:

1. ‘ Magnetic standard compasses and magnetic steering compasses

Magnetic standard compasses and magnetic steering compasses installed fixedly on board ships flying the German flag must be adjusted before entry into service and at least every two years thereafter in such a way that the largest deviation complies with technical standard G.1 in Annex G to DIN ISO 25862:2021-01; proof of adjustment shall be kept on board in the form of a table of deviation. The master shall regularly check the deviation and carry the recorded entries for the results of the previous 12 months' controls'.

c) In Section D, Subsection D.III is repealed

10. Annex 1a is amended as follows:

a) Part 1 is amended as follows:

a%6) Regulation 1.1 is worded as follows:

'1.1 This Part applies to passenger ships engaged in domestic voyages flying the German flag that are not subject to Directive 2009/45/EC, including day-trip boats and recreational angling craft. This Part shall also apply, in particular, to historical passenger ships designed before 1965 and built primarily with the original materials, either as originals or as individual replicas, to the extent that they are not subject to the requirements for traditional ships under Part 3.'

b%6) Regulation 1.2 is worded as follows:

'To the extent that the provisions of the Annex to Directive 2009/45/EC are not applicable, this Part shall also apply to existing class C and class D ships as defined in Article 6(3)(c) of Directive 2009/45/EC.'

c%6) In Regulation 1.3 letter (c) double letter (bb), the German word for 'commercial' 'gewerblichen' is replaced by the German word 'gewerbsmäßigen'.

d%6) The following sentence is added to Regulation 3.1:

'For passenger ships under 24 m in length, Regulations 2 to 8 of Chapter II-1, Part B-2 and Regulation 13 of Chapter II-2, Part B of Section 1 of Annex I to Directive 2009/45/EC shall apply mutatis mutandis, even if their keel was laid on or after 19 September 2021 or were at a similar stage of construction before that date.'

b) After Part 1, the following Part 1a is inserted:

**'Part 1a**

**Safety requirements for the construction, equipment and operation of passenger ships in the port area of the island of Helgoland**

**Chapter 1**

## General provisions

### 1. Scope of application

- 1.1 This Part applies to passenger ships flying the German flag and operating exclusively in the port area of the island of Helgoland.
- 1.2 This Part shall not apply to passenger ships holding a certificate in accordance with the SOLAS Convention, Directive 2009/45/EC or Part 1 of this Annex.

### 2. Definitions

- 2.1 For the purposes of this Part, the following definitions shall apply:
  - 2.1.1 **passenger ship**: a ship carrying more than 12 passengers or authorised to carry more than 12 passengers;
  - 2.1.2 **passenger**: every person other than
    - a) the master and members of the crew or other persons employed, engaged or otherwise active in any capacity on board a ship on the business of that ship, and
    - b) children under 1 year of age;
  - 2.1.3 **port area of the island of Helgoland**: the area of water between the main island of Helgoland and the dunes, bounded to the north by the line joining the coordinates 54° 11,38' N 007° 53' E (Helgoland Mole Nord-Ost) and 54° 11,36' N 007° 54' E (Dünendamm-West) and bounded to the south by the line joining the coordinates 54° 10,24' N 007° 54' E (Helgoland Südmole) and 54° 10,84' N 007° 55' E (Düne Mole Süd-Ost);
  - 2.1.4 **Börte boat**: a traditional open fishing boat of Helgoland design, used as a passenger ship for landing in Helgoland roadsteads and for passenger transport in the port area of the island of Helgoland;
  - 2.1.5 **new passenger ship**: a passenger ship the keel of which was laid on or after [insert: Date of entry into force of this amending Ordinance];
  - 2.1.6 **existing passenger ship**: a passenger ship which is not a new passenger ship;
  - 2.1.7 **recognised organisation**: a classification society recognised under Regulation (EC) No 391/2009 with which a working relationship as defined in Article 5(2) of Directive 2009/15/EC has been established;
  - 2.1.8 **BG Verkehr**: the Ship Safety Division of the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication;
- 2.2 Insofar as this Part refers to specific provisions, the following versions are meant:
  - 2.2.1 **SOLAS Convention** International Convention for the Safety of Life at Sea, 1974, including protocols of 1978 and 1988 (BGBl. 1979 II

p. 141,142, 1980 II p. 525; 1983 II p. 784; 1994 II p. 2458, Annex Volume for BGBl. II No 44 of 27 September 1994, p. 43), as amended;

2.2.2 **Intact Stability Code:** Resolution MSC.267(85) on the International Code on Intact Stability of 2008 (VkBl. 2009, p. 724), as amended;

2.2.3 **HSC Code:** International Code of Safety for High-Speed Craft (HSC Code 2000, Resolution MSC.97(73)), adopted on 5 December 2000 (VkBl. 2002, p. 449), as amended;

2.2.4 **Maritime Equipment Ordinance:** Maritime Equipment Ordinance of 1 October 2008 (BGBl. I p. 1913), as last amended by Article 6 of the Ordinance of 3 March 2020 (BGBl. I p. 412), as amended;

2.2.5 **Directive 2009/15/EG:** Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28.5.2009, p. 47), as amended;

2.2.6 **Directive 2009/45/EC:** Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (Recast) (OJ L 163, 25.6.2009, p. 1), as amended;

2.2.7 **Regulation (EC) No 391/2009:** Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11), as amended;

2.2.8 **DIN ISO 12216:** DIN EN ISO 12216:2019-04, Small craft – Windows, portlights, hatches, deadlights or doors – Strength and watertightness requirements (ISO 12216:2002), as amended in April 2019;

### 3. Safety requirements

3.1 Unless otherwise specified below:

- a) for passenger ships, the requirements of Chapter 2 apply;
- b) by way of derogation from point (a), for Börte boats, the requirements of Chapter 3 apply.

#### 3.2 Construction and equipment

3.2.1 Passenger ships shall, in their construction and strength, and in the construction of machinery and electrical systems, be designed, equipped and maintained in such a way that they satisfy the stresses required by the intended use.

3.2.2 Insofar as Chapter 2 or Chapter 3 do not contain specific requirements for construction, positioning, facilities, systems, equipment, materials, their installation and operation, the generally recognised state of the art shall be observed.

3.2.3 The equipment required by Chapter 2 or Chapter 3 shall be approved in accordance with the Maritime Equipment Ordinance, unless other-

wise specified in the following rules. Equipment that is not subject to the Maritime Equipment Ordinance must be approved by BG Verkehr or the Federal Maritime and Hydrographic Agency or satisfy the requirements of a recognised organisation.

- 3.3. Prescribed equipment lawfully manufactured or marketed in another Member State of the European Union or Türkiye or an EFTA State party to the EEA Agreement shall be recognised as equivalent.

### 3.4 **Emergency and rescue plan**

The person responsible for the operation of the ship shall draw up an emergency and rescue plan describing the potential danger situations and the appropriate rescue measures. The emergency and rescue plan must be submitted to BG Verkehr for approval. It should be based on the criteria published by the Federal Ministry for Digital and Transport in the Transport Gazette.

### 3.5 **Quality management system**

For passenger ships, operation and maintenance shall be monitored using a quality assurance system in accordance with Regulation 1.2.1.2 of the HSC Code. The emergency and rescue plan shall be part of the quality management system.

## 4. **Surveys and certification**

### 4.1 **Surveys**

- 4.1.1 Passenger ships shall be inspected in accordance with Regulation 7 of Chapter I of the SOLAS Convention. Regulation 10(a)(v) of Chapter I of the SOLAS Convention shall apply, mutatis mutandis, to surveying the exterior of the bottom of the ship.

- 4.1.2 By way of derogation from Regulation 4.1.1, Börte boats shall be subject to an initial survey prior to entry into service and to a periodic survey, which shall be carried out every 12 months. A survey of the exterior of the bottom of the ship shall be carried out every 24 months. In addition, if applicable, Regulation 4.1.1 shall apply, mutatis mutandis, with regard to the scope of the survey.

- 4.1.3 From the survey, the surveyor shall draw up a survey report and submit it to the owner of the ship. A model survey report is published by BG Verkehr. The survey report of the last survey shall be kept on board. Survey reports for Börte boats may also be stored with the bridge captain.

- 4.1.4 After a survey, no changes may be made to the construction, facilities, machinery, equipment or other objects which were covered by the survey without the approval of BG Verkehr.

### 4.2 **Certification**

- 4.2.1 If the survey reveals compliance with the applicable provisions of this Part, BG Verkehr shall issue:

- a) for passenger ships, a passenger ship safety certificate;

- b) by way of derogation from point (a), for Börte boats, a Börte boat service certificate.

4.2.2 Model passenger ship safety certificates and Börte boat service certificates in accordance with this Ordinance shall be published in the Transport Gazette.

4.2.3 BG Verkehr shall specify the maximum number of passengers permitted in the safety certificate or the Börte boat service certificate. Particular account shall be taken in this respect of the proven stability values, escape and rescue routes and deck surfaces on and below deck suitable for the accommodation of passengers. In the case of Börte boats, the number of passengers shall not exceed 50.

#### 4.3 **Period of validity**

The passenger ship safety certificate and the Börte boat service certificate shall usually be issued for a period of two years. A reasonable shorter period may also be specified in special cases. Furthermore, Regulation 14 of Chapter I of the SOLAS Convention shall apply, mutatis mutandis.

#### 4.4 **Provisional decision**

A provisional decision may be made on the issuing of a passenger ship safety certificate or a Börte boat service certificate if:

- a) a longer period of time is expected to be necessary to determine compliance with the conditions;
- b) the surveys required by Regulation 4.1 have been completed;
- c) on the basis of the results of those surveys, the conditions for certification are reasonably likely to be met; and
- d) the applicant is not responsible for the circumstances which preclude a final decision.

The validity of a provisional certificate or a provisional acknowledgment referred to in the first sentence may not exceed five months, depending on the possibility of satisfying additional requirements.

4.5 Survey and certification obligations under other legislation remain unaffected.

## **Chapter 2**

### **Passenger ships**

#### **1. Scope and basic safety requirements**

1.1 This Chapter applies to new passenger ships under 24 metres in length.

1.2 Unless otherwise specified in this Part, for passenger ships under this Chapter, the requirements of the HSC Code for Category A passenger craft shall apply, mutatis mutandis.

1.3 The construction and maintenance of the hull, main and auxiliary machinery and electrical and automatic systems shall conform to the standard prescribed by the classification rules of a recognised organisation.

1.4 Depending on the proven construction design and the equipment available, BG Verkehr may impose conditions on operation. No permit to operate under Regulation 1.9 of the HSC Code is required.

## **2. Buoyancy, stability and subdivision**

### **2.1 General**

Regulations 2.1.6 and 2.1.7 of the HSC Code shall not apply.

### **2.2 Coaming heights and closures**

Regulations 2.2.1.2, 2.2.2.6, 2.2.2.7 and 2.2.5 of the HSC Code shall not apply. The weather-tightness, within the meaning of Regulation 2.2.7 HSC Code, shall be deemed to be met if the closure devices in question meet the requirements of DIN ISO 12216. All openings shall be documented in a closure plan.

### **2.3 Intact stability**

2.3.1 Regulation 2.3 of the HSC Code shall apply in conjunction with the requirements of Regulations 2.10 to 2.11 of the HSC Code.

2.3.2 Regulations 2.4, 2.5 and 2.12 to 2.14 of the HSC Code shall not apply.

2.3.3 If permanent ballast is used, Regulation 3.2 of the Intact Stability Code shall apply.

### **2.4 Damage stability**

Regulations 2.6.7 to 2.6.12 of the HSC Code shall not apply. The requirements for the GZ curve set out in Regulation 2.13 of the HSC Code shall only apply in the following cases of damage:

- a) Side damage with 1-compartment status: Damage length  $0,375 \cdot \nabla^{1/3}$ , Penetration depth  $0,2 \cdot \nabla^{1/3}$  full vertical height of the ship;
- b) Bottom damage with 1-compartment status: Damage length  $0,375 \cdot \nabla^{1/3}$ , Penetration depth normal to the shell plating  $0,02 \cdot \nabla^{1/3}$ , Width of the damage  $0,2 \cdot \nabla^{1/3}$ ;
- c) Collision damage: Damage length  $0,2 \cdot \nabla^{1/3}$  measured from the foremost or rearmost point of the hull, total breadth and height of the ship.

If the distance between two adjacent bulkheads is smaller than the associated minimum damage length, one of the two bulkheads shall be considered damaged (2-compartment status).

## **2.5 Heeling test and stability documentation**

2.5.1 The heeling test shall be carried out in accordance with the Intact Stability Code.

2.5.2 The stability documentation to be drawn up in accordance with Regulation 2.7 of the HSC Code must be verified by a recognised organisation, endorsed with a verification mark and submitted to BG Verkehr for approval. By way of derogation from Regulation 2.14.2 of the HSC Code, the tolerances of a possible weight calculation shall be 4 % in relation to the unladen vessel weight and 2 % in relation to the longitudinal centre of gravity.

2.5.3 Regulation 2.8 of the HSC Code shall not apply.

## **3. Structures**

Chapter 3 of the HSC Code shall apply without derogation.

## **4. Passenger spaces and escape routes**

4.1 Regulation 4.2.4 and Regulations 4.3 to 4.6 of the HSC Code shall not apply.

4.2 The second escape route within the meaning of Regulation 4.7.4 of the HSC Code may also be recognised as a side door through which rescuers can access the passenger spaces and effect outboard evacuation. Regulations 4.7.5, 4.7.17 and Regulations 4.9 and 4.10 of the HSC Code shall not apply.

4.3 The clear width of all means of escape within the meaning of the Regulation; 4.7.13 of the HSC code shall not be less than 600 mm. Cleats or bollards that can be accessed from outside shall be provided in the immediate vicinity of the side door.

## **5. Course and steering facilities**

5.1 By way of derogation from Regulation 5.2.2 of the HSC Code, in the case of two oppositely controllable propellers or one propeller in combination with a bow thruster, the fitting of an auxiliary steering system may be omitted if it can be demonstrated during testing that the ship can still be safely manoeuvring in the most adverse circumstances. The testing must be carried out in the presence of a surveyor of BG Verkehr or a recognised organisation.

5.2 Failure mode and effect analysis (FMEA) according to Regulation 5.2.5 of the HSC Code is not required.

5.3 Regulations 2 and 3 of Annex 9 of the HSC Code shall not apply.

5.4 Regulation 5.4.3 of the HSC Code shall not apply.

## **6. Anchoring, towing and berthing**

Chapter 6 of the HSC Code shall apply without derogation.

## **7. Fire safety**



- 7.1 The passenger area (category C low fire risk area) may be directly adjacent to the bridge area (category D control station).
- 7.2 By way of derogation from Regulation 7.7.1 of the HSC Code, no fire detectors are required for the bridge and the passenger area if both areas form one space. The manual fire alarm points are also not required. Instead of the video-surveillance required by Regulation 7.7.1, the Ship Safety Division may accept other appropriate measures.
- 7.3 By way of derogation from Regulation 7.9.2 of the HSC Code, a duplicate of the fire safety plan may also be stored with the shore-side fire brigade.

## **8. Life-saving appliances and arrangements**

- 8.1. Chapter 8 of the HSC Code shall not apply, with the exception of the following Regulations.
- 8.2. Regulation 8.2.3.2 of the HSC Code applies with the proviso that three rocket parachute flares, six hand flares and two smoke pots are sufficient.
- 8.3. Additional lifejackets according to Regulations 8.3.5.2 and 8.3.5.3 of the HSC Code are not required. Life jackets in accordance with Regulation 8.3.6 of the HSC Code shall be stored in an easily accessible position under each seat. Immersion suits in accordance with Regulations 8.3.7 and 8.3.8 are not required.
- 8.4. The emergency instructions in accordance with Regulation 8.4 of the HSC Code shall be provided in the form of a safety card at each seat. A muster list and training manual are not required.
- 8.5. A rescue boat in accordance with Regulation 8.10.1.4 may be omitted if there are means on board for retrieving persons from the water.

## **9. Machinery**

- 9.1. Failure mode and effect analysis (FMEA) in accordance with Regulation 9.1.10 of the HSC Code is not required.
- 9.2. Regulation 9.2.3 of the HSC Code shall not apply if an emergency shut-off is provided directly on the engine.

## **10. Auxiliary systems**

- 10.1. Regulation 10.2.4.3 of the HSC Code shall not apply. By way of derogation from Regulation 10.2.4.4 in conjunction with Regulation 7.5.6.1 of the HSC Code, fuel tanks may be integrated into the structure of the ship. They may be connected to engine rooms provided that the engine room bulkhead facing the engine room is fitted with A60 insulation.
- 10.2. By way of derogation from Regulations 10.3.5 and 10.3.6, a power bilge pump system shall be provided that is capable of pumping out any watertight compartment except tanks, empty cells or permanently foam-filled compartments under all conditions.



## **11. Remote controls, alarm and safety systems**

- 11.1 Regulation 11.2.4 of the HSC Code shall not apply.
- 11.2 Regulation 11.3.2 of the HSC Code shall not apply.
- 11.3 Regulation 11.4.1.3 of the HSC Code shall not apply.
- 11.4 Regulation 11.4.3 of the HSC Code shall not apply.

## **12. Electrical installations**

- 12.1 By way of derogation from Regulation 12.1.1 of the HSC Code, failure mode and effect analysis (FMEA) is not required. By way of derogation from Regulation 12.2.1 of the HSC Code, the main source of electrical power may also consist of a suitably designed battery pack.
- 12.2 Regulation 12.3.9 of the HSC Code shall not apply.
- 12.3 By way of derogation from Regulation 12.5.1 of the HSC Code, a second battery pack may be omitted if the emergency power supply is designed to maintain the control or stabilisation of a craft in emergency operation.
- 12.4 By way of derogation from Regulation 12.7.3 of the HSC Code, the emergency source of electrical power shall be able to supply all consumers connected to the emergency switch panel, the GMDSS system, the navigation systems and the position sensor for at least 30 minutes.
- 12.5 Regulation 12.7.1 of the HSC Code shall not apply.

## **13. Shipborne navigational systems and voyage data recorders**

Regulations 13.1, 13.2.6, 13.3, 13.5.2, 13.5.4 and 13.7.1, and Regulations 13.8, 13.9.1, 13.10, 13.12, 13.14 and 13.16 of the HSC Code shall not apply. Regulation 13.5.3 of the HSC Code applies with the proviso that local tracking and speed stabilisation are achieved using an Electronic Positioning System (EPFS).

## **14. Radio equipment**

- 14.1 Regulation 14.15.8 of the HSC Code shall apply with the proviso that availability is ensured by means of a contract for shore-based maintenance. Otherwise, Chapter 14 of the HSC Code shall not apply.
- 14.2 The craft shall have at least one fixed Class A VHF DSC system and a portable VHF radiotelephone apparatus (transmitter/receiver) for survival craft with a spare emergency battery, with a non-replaceable seal.
- 14.3 A freely floatable EPIRB with an integral global navigation satellite system (GNSS) in a self-initiator shall be installed.

## **15. Operating compartment layout**

- 15.1 With the exception of Regulation 15.7.1, Chapter 15 of the HSC Code

shall not apply.

- 15.2 The operating compartment shall be designed in such a way as to ensure a free view towards the front of the craft up to 1 nautical point astern and abeam. The display and control elements relevant to the operation shall be readily visible and operable from the steering position.

## **16. Stabilisation systems**

Chapter 16 of the HSC Code shall not apply.

## **17. Handling, controllability and performance**

Chapter 17 of the HSC Code shall not apply.

## **18. Operational requirements**

- 18.1 With the exception of Regulation 18.2.5.1, Chapter 18 of the HSC Code shall not apply.

- 18.2 Instead of Regulation 18.5 of the HSC Code, the following shall apply:

### **18.2.1 General emergency instructions**

Emergency instructions in German and English shall be displayed in the areas accessible to passengers. The emergency instructions shall include an escape route plan and illustrations of the use of life jackets.

### **18.2.2 On-board emergency drills**

Emergency drills should be organised on a regular basis. The emergency scenario should vary in this respect in order to prepare for different emergencies. Emergency drills must also be documented in the ship's logbook.

### **18.2.3 Evacuation drills with external assistance**

Evacuation drills should be carried out every six months for each type of external rescue intended for the ship. The evacuation drill shall be carried out with a sufficient number of passengers. Evacuation drills shall be documented in the ship's logbook.

## **19. Inspection and maintenance requirements**

Chapter 19 of the HSC Code shall not apply.

## **Chapter 3**

### **Börte boats**

#### **1. Scope**

This Chapter shall apply to new and existing Börte boats, unless otherwise specified below.

## **2. Design and construction**

- 2.1 Börte boats shall be constructed as open craft which have carvel planking below the waterline and clinker planking above the waterline. The clinker planking of the above-water vessel should normally consist of four plank strakes. The planks shall have a width of 20 to 30 cm. The thickness of the planks shall not be less than 24 mm.
- 2.2 Oak, kambala or other equivalent types of wood may be used as construction material.
- 2.3 The ribs shall not be more than 50 cm apart.
- 2.4 There shall be at least three transverse thwarts as reinforcements in the transverse direction of the Börte boat. Longitudinal thwarts shall be provided along the wale, which shall contribute to both the transverse and longitudinal strength of the Börte boat. The width of the longitudinal thwarts shall provide sufficient seating surfaces for passengers and shall provide sufficient stepping safety for embarking and disembarking persons during embarkation and disembarkation.
- 2.5 In the case of new ships, a collision bulkhead shall be provided under the forward transverse thwart.
- 2.6 Openings through the shell must be limited to what is technically necessary. For each bilge pump, the cooling water inlet and outlet and the exhaust pipe of the engine, shell fittings made of tough metal materials shall be provided. Openings in the shell shall be designed in accordance with the state of the art and shall be adequately sealed and preserved.
- 2.7 An adequate number of cleats of sufficient strength, but not less than four per boat, for safe mooring of the Börte boat and for hitching the anchor line shall be provided. A hook shall be provided in the bow area of the boat for mooring on the passenger ship on roadsteads, which is held and secured on the stem post such that the static and dynamic loads of the foreline of the fully-occupied boat are safely discharged into the body of the boat.
- 2.8 The bow height shall be designed so as to ensure sufficient view ahead for the master and, at the same time, adequate protection from breaking-over water.
- 2.9 The buoyancy shall be sufficient, given the size of the Börte boat, for the number of persons it is intended to transport.

## **3. Steering gear, manoeuvring capability**

- 3.1 The steering gear shall be provided with an attached rudder consisting of tiller, rudder blade and rudder fittings.
- 3.2 The dimensioning of the steering gear shall provide the boat with sufficient manoeuvrability for the intended use.

## **4. Machinery**

- 4.1 Börte boats shall have a propulsion engine which acts on the propel-

ler through gearbox, thrust bearings and shaft. In the case of electric Börte boats, the gearbox may be omitted.

- 4.2 If the propulsion engine is a diesel engine, it shall be designed for sufficient tank capacity for the intended use even in adverse environmental conditions. At least five hours of service shall be guaranteed. A consumption of at least 10 l/h for a 50 kW engine shall be assumed. In case of higher engine power, the additional consumption shall be taken into account accordingly. Tanks shall be protected against leakage and shall be kept in areas sealed against outboard fuel leakage. Fuel supply, exhaust pipe and cooling water supply shall be installed and designed in such a way that safe operation can be maintained even under adverse conditions and the recognised state of the art in boat construction is complied with. They must be protected from contact.
- 4.3 The exhaust system should fundamentally be constructed as a wet exhaust system.
- 4.4 If the propulsion engine is an electric motor, its power supply shall be designed in such a way that there is sufficient capacity for the intended use even in adverse environmental conditions. A minimum range of six nautical miles below normal speed, even in adverse environmental conditions, must be ensured. The accumulators shall be permanently installed in areas protected against water ingress. Connections and switches must be protected from water and protected against accidental damage and contact.
- 4.5 The power of the propulsion engine should allow hull speed even in adverse environmental conditions.
- 4.6 In new ships, fuel level indicators for fuel tanks or capacity indicators for accumulators shall be provided.
- 4.7 The drive shaft shall be made of high strength steel. For lubrication purposes, water or grease lubrication shall be provided.

## **5. Pumping equipment**

- 5.1 At least two power-operated bilge pumps shall be installed. They shall be capable of being activated by a float switch. The pumping capacity of each pump shall be at least 2.0 m³/h. The power supply to the electric bilge pumps shall be such that the pumps can be operated in parallel for at least two hours. The connections and switches shall be protected from water.
- 5.2 One of the two power-operated pumps may be replaced by a manual hand bilge pump with the same pumping capacity as the electric bilge pump.

## **6. Electrical installations**

- 6.1 The electrical supply of a Börte boat shall be adequately protected against overload. The boat shall be grounded with a earthing plate.
- 6.2 The live lines and components shall be installed in such a way that they cannot be damaged by crew or passengers. They must be in-

stalled in such a way that they are protected from environmental influences and fundamentally should not be placed in the bilge.

## **7. Equipment**

7.1 The following minimum equipment must be available on board:

7.1.1 Radiotelephony:

a portable VHF radiotelephone apparatus with a transmitter/receiver unit for survival craft with a back-up battery for emergency situations that has a non-replaceable seal.

7.1.2 Navigation:

- a) a class IV magnetic steering compass for lifeboats, fixedly connected to the Börte boat; and
- b) a mouth horn or sound signal with compressed air reservoir, which do not have to be approved under the Marine Equipment Ordinance.

7.1.3 Life-saving appliances:

- a) a lifebuoy with a 30 m floating line and night rescue light, and
- b) inherent buoyancy life jackets for each person on board.

7.1.4 Auxiliary equipment:

- a) In accordance with the generally recognised state of the art, an anchor of sufficient size and holding power and a suitable line or chain,
- b) four mooring lines of sufficient strength and quality in accordance with the generally recognised state of the art to enable the safe performance of all towing and mooring operations associated with the normal operation of the vessel,
- c) four fenders, and
- d) two boat hooks.

7.2 Instead of being equipped with inherent buoyancy life jackets for each passenger, the thwarts may be fitted with buoyancy devices and mounted so as to be freely floating. The buoyancy of the thwarts shall be documented. The number of thwarts serving as floats and their total buoyancy shall be sufficiently designed and proven for the maximum number of persons on board.

7.3 For the alternative equipment referred to in Regulation 7.2, the longitudinal strength of the Börte boat must be guaranteed by other structures and must be approved by BG Verkehr.

## **8. Fire safety**

A 6 kg ABC powder extinguisher shall be provided on each Börte

boat.

## **9. Maintenance and repairs**

9.1 The condition of the Börte boat and its equipment shall be maintained in such a way that it complies with the provisions of this Ordinance. It must be ensured that the Börte boat can always be used in all respects without endangering the boat and the persons on board.

9.2 The testing and maintenance of the following systems and equipment shall be recorded and documented in an appropriate form.

9.2.1 The condition of the steering gear shall be checked at regular intervals.

9.2.2 Seacocks, screw shaft passages and bilge devices shall be regularly inspected.

9.2.3 Main engines, bilge pumps and fire extinguishers shall be maintained and refurbished in accordance with the manufacturer's instructions'.

c) In Part 3, Chapter 1, the following sentence is added to Regulation 13.3:

'By way of derogation from the first sentence, traditional ships, for which a renewal application is made for the first time by 31 December 2024, must meet the requirements set out in Chapters 2 to 11 as regards:

a) the equipment and the operational safety system within three years and

b) with regard to structural requirements by the next renewal survey

.'

d) Part 6 is worded as follows:

## **'Part 6**

### **Safety requirements for cargo ships**

#### **Chapter 1**

#### **General provisions**

#### **1. Scope of application**

1.1. This Part applies to:

- 1 cargo ships engaged in domestic voyages, irrespective of the gross tonnage;
- 2 cargo ships engaged in international voyages, to the extent that the SOLAS Convention does not apply.

1.2. This Part does not apply to

- 1 ships of the Federal Armed Forces and the German

Sea Rescue Society;

- 2 inland waterway vessels with technical approval for waterways in zones 1 and 2 in accordance with Annex 1 to the Inland Waterway Vessel Inspection Code of 21 September 2018 (BGBl. I p. 1398), as amended, during navigation on those waterways;
- 3 fishing vessels;
- 4 recreational craft within the meaning of the Maritime Recreational Craft Ordinance;
- 5 small craft, which are not used for commercial or for sports and leisure purposes. The requirement laid down in the second sentence of § 15(3) of the Ordinance on recreational craft and personal watercraft and § 11 of the Maritime Recreational Craft Ordinance shall remain unaffected;
- 6 small craft used for non-economic purposes, unless an application is made pursuant to § 9(3), first sentence, subparagraph 2;
- 7 traditional ships that are covered by Part 3;
- 8 cargo ships under 3.60 m in length;
- 9 watercraft referred to in point (a) of Article 2(2) of Directive 2013/53/EU;
- 10 sports training craft with a hull length under 8 m.

In the case of small craft within the meaning of the first sentence subparagraph 6, for which no application is made pursuant to § 9(3), first sentence, subparagraph 2, BG Verkehr shall certify, upon application, that they are exempt from the certificate obligation. The Federal Ministry for Digital and Transport, or on its behalf, BG Verkehr, shall publish safety recommendations for small craft within the meaning of the first sentence subparagraph 6 in the Transport Gazette.

## 2. Definitions

2.1. For the purposes of this Part, the following definitions are used:

- 1 **cargo ship**: a ship which is not a passenger ship;
- 2 **passenger ship**: a ship carrying more than 12 passengers or authorised to carry more than 12 passengers;
- 3 **passenger**: every person other than
  - a) the master and members of the crew or other persons employed, engaged or otherwise active in any capacity on board the ship on the busi-

- ness of that ship; and
- b) children under 1 year of age;
- 4 **small craft:** a cargo ship under 24 metres in length;
- 5 **special craft:** a cargo ship, including a small craft, for a specific purpose, divided into:
- a) **tugs:** a cargo ship constructed and intended to haul and push water craft, floating machinery and other floating objects;
- b) **public authority craft:** a cargo ship within the meaning of § 3(c) of the Flag Act or which is used for the performance of public authority tasks under the supervision of the Federal Government, a federal state (Land) or a municipality or a municipal association, and not serving commercial purposes;
- c) **non-self-propelled watercraft:** a cargo ship constructed to be towed or pushed by other craft, in particular barges or pontoons;
- d) **floating machinery:** a cargo ship constructed in such a way that it can accommodate only specific machinery and has no other means of loading, in particular excavators, floating cranes, pile drivers, salvage vessels, drilling and lifting platforms and production platforms;
- e) **installation vessel:** a cargo ship constructed and intended for the transport and construction of structures at sea;
- 6 **special purpose ship:** a mechanically propelled cargo ship which, by virtue of its function, carries more than 12 persons specialised personnel within the meaning of the SPS Code;
- 7 **offshore supply vessel:** a cargo ship primarily used for the transport of supplies, materials and equipment to maritime (offshore) facilities and designed in such a way that the structure containing the accommodation and the bridge is located in the forward area of the ship and a cargo deck exposed to weather for managing or handling cargo at sea is located in the rear part;
- 8 **offshore service vessel:** a cargo ship or a high-speed craft used to carry offshore service personnel not working on board, where the number of persons on board, including crew, shall not exceed 60 and the number of passengers other than offshore service personnel shall not exceed 12;
- 9 **offshore service personnel:** persons transported or



accommodated on board for the purpose of offshore service activities carried out on board other vessels or offshore facilities;

- 10 **safety training:** training on safety procedures, the operation of a ship's personal protective equipment and protective equipment based on the interim recommendations adopted by the IMO Maritime Safety Committee in Resolution MSC.418(97) for the safe carriage of more than 12 offshore service personnel on board vessels engaged in international voyages, adopted on 16 February 2017 (VkB1. 2017 p. 208);
- 11 **fitness for maritime service:** medical fitness for service on board ships within the meaning of § 11 of the Maritime Labour Act;
- 12 **high-speed craft:** a vessel achieving a maximum speed in m per second (m/s) equal to or greater than:

$$3.7 \nabla^{0.1667}.$$

Where:

$\nabla$  = Displacement volume according to the design waterline (m<sup>3</sup>), excluding craft the hulls of which are kept, in the non-displacement mode, completely above the water surface by aerodynamic forces generated by the air-cushion effect.

- 13 **mobile offshore drilling platform (MODU):** a craft suitable for drilling activities to explore or extract submarine resources, such as liquid or gaseous hydrocarbons, sulphur or salt;
- 14 **domestic voyage:** a voyage in maritime territories from a German port to the same or another German port;
- 15 **international voyage:** a voyage from a German port to a port outside Germany or vice versa;
- 16 **commercial:** the carriage of persons or cargo for remuneration, offered publicly to an undefined group of persons with a certain regularity or the provision of services for remuneration, where no profit-making purpose is required;
- 17 **sports and leisure purposes:** the non-commercial use of a craft for water sports activities, for locomotion, for pleasure or for enjoyment on board; Sports and leisure purposes do not exist in the case of communication, cultural, political, religious, scientific, artistic, charitable and humanitarian activities or similar non-economic purposes;
- 18 **commercial passenger transport:** the carriage of passengers for remuneration, offered publicly to an un-

defined group of persons with a certain regularity, where no profit-making purpose is required;

- 19 **length:** The length as defined in Article 2(8) of the London Tonnage Measurement Convention;
- 20 **new ship:** a ship the keel of which was laid on or after 1 October 2015 or which was at a similar stage of construction on that date; the expression 'a similar stage of construction' means the stage
  - a) which indicates the start of construction of a particular ship or craft, and
  - b) at which assembly of the vessel in question has commenced, using at least 50 tonnes or 1 % of the estimated total amount of all construction materials, with the smaller figure prevailing;
- 21 **existing ship:** a ship which is not a new ship;
- 22 **BG Verkehr:** the Ship Safety Division of the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication;
- 23 **recognised organisation:** a classification society recognised under Regulation (EC) No 391/2009 with which a working relationship as defined in Article 5(2) of Directive 2009/15/EC has been established;
- 24 **notified body:** a body authorised by a State notification procedure, which, on the basis of the product-specific European directives (EU Directives), has to be included in the conformity assessment procedures for CE marking;
- 25 **decked vessel:** A craft with a fully watertight weather deck, which is above the waterline under all loading conditions and which may be fitted with superstructures and deckhouse;
- 26 **partially decked vessel:** A craft with a weather deck that is not fully watertight, which is above the waterline under all loading conditions; superstructures or deckhouses may be fitted on the weather deck;
- 27 **open vessel:** A vessel which is not a decked or partially decked craft;
- 28 **ship's boat:** A vessel which is carried by the mother vessel and which is only propelled by means of its own motor in order to carry out work in the immediate vicinity of the mother vessel.
- 29 **sports training craft:** A small craft of a sports school used to train the driving of recreational craft on the basis of a written training programme, in particular to ob-

tain a recreational craft driving licence under the Recreational Craft Driving Licence Ordinance or a certificate of competence under the Maritime Recreational Craft Driving Licence Ordinance.

- 30 **hull length:** Hull length LH in accordance with DIN EN ISO 8666:2021-04.

2.2. Insofar as this Part refers to specific provisions, the following versions are meant:

- 1 **SOLAS Convention:** International Convention for the Safety of Life at Sea, 1974, including protocols of 1978 and 1988 (BGBl. 1979 II, p. 141; 1980 II p. 525; 1983 II p. 784; 1994 II p. 2458, Annex Volume for BGBl. II No 44 of 27 September 1994, p. 43), as amended;
- 2 **Load Line Convention:** 1966 International Convention on Load Lines including Annex and protocol of 1988 (LL 66, BGBl. 1969 II, p. 249; 1977 II p. 164; 1994 II p. 2457, Annex Volume) as amended;
- 3 **London Tonnage Measurement Convention:** International Convention on Tonnage Measurement of Ships of 23 June 1969 (BGBl. 1975 II, p. 67), as amended;
- 4 **SPS Code:** Code on the safety of special purpose ships
  - a) for ships constructed or approved as special purpose ships before 1 January 2009: Code of Safety for Special Purpose Ships (Resolution A.534(13)), adopted on 17 November 1983 (VkBl. 1993 p. 671), as amended;
  - b) for ships constructed or approved as special purpose ships on or after 1 January 2009: Code of Safety for Special Purpose Ships (Resolution MSC.266(84)), adopted on 13 May 2008 (VkBl. 2009 p. 84), as amended;
- 5 **MODU Code:** Code for the construction and equipment of mobile offshore drilling units
  - a) for platforms the keel of which is laid before 1 January 2012 and which are not in a similar stage of construction on 1 January 2012: Code for the construction and equipment of mobile offshore drilling units (MODU Code 89, Resolution A.649(16), Federal Gazette (BAnz.) 1997 No 121a) adopted on 19 October 1989, as amended;
  - b) for platforms the keel of which is laid on or after 1 January 2012 or which are at a similar stage of construction on that date: Code for the construction and equipment of mobile offshore drilling units (MODU Code 2009, Resolution

1023(26)), adopted on 2 December 2009 (VkBl. 2011 p. 747, reprint B 8150), as amended;

- 6 **HSC Code:** International Code of Safety for High-Speed Craft
  - a) for ships constructed before 1 January 2002: International Code of Safety for High-Speed Craft (HSC Code 1994, Resolution MSC.36(63)), adopted on 20 May 1994 (BANz. No 21a of 31 January 1996), as amended;
  - b) for ships constructed on or after 1 January 2002: International Code of Safety for High-Speed Craft (HSC Code 2000, Resolution MSC.97(73)), adopted on 5 December 2000 (VkBl. 2002 p. 449), as amended;
- 7 **LSA Code:** International Life-Saving Appliance Code (Resolution MSC.48(66)), adopted 4 June 1996 (BANz. No 118a of 01 July 1998), as amended;
- 8 **Intact Stability Code:** Resolution MSC.267(85) on the International Code on Intact Stability of 2008 (VkBl. 2009 p. 724), as amended;
- 9 **OSV guidelines:** Guidelines for the design and construction of offshore supply vessels (MSC.235(82)), adopted on 1 December 2006 (VkBl. 2010 p. 451), as amended;
- 10 **Directive 2009/15/EG:** Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28.5.2009, p. 47), as amended;
- 11 **Regulation (EC) No 391/2009:** Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11), as amended;
- 12 **Directive 2014/90/EU:** Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (Marine Equipment Directive) (OJ L 257, 28.8.2014, p. 146), as amended;
- 13 **Directive 2013/53/EU:** Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC.
- 14 **RO Code:** Code for recognised organisations under the SOLAS Convention Chapter XI-1, Regulation 1

(MSC.349(92) and MEPC.237(65)), adopted on 17 May 2013 (VkB1. 2014 p. 942), as amended;

15 **Ordinance on recreational craft and personal watercraft:** Tenth Ordinance implementing the Product Safety Act of 29 November 2016 (BGBl. I p. 2668), as amended by Article 24 of the Act of 27 July 2021 (BGBl. I p. 3146);

16 **Maritime Recreational Craft Ordinance:** Maritime Recreational Craft Ordinance of 29 August 2002 (BGBl. I, p. 3457), as last amended by Article 2(2) of the Ordinance ... (BGBl. I...) [insert: Date of issue and publication reference of this amending Ordinance];

17 **DIN, EN and DIN EN ISO standards:** Generally applicable national or international technical rules.

2.3 In addition, the definitions laid down in the SOLAS Convention are applied.

### 3. Safety requirements

3.1 Cargo ships shall comply with the requirements of Chapter 2 of this Part.

3.2 For small craft, the requirements of Chapter 2 shall apply, unless otherwise specified in Chapter 3.

3.3 For special craft, the provisions of Chapter 4 shall also apply.

3.4 For installation vessels, BG Verkehr may also draw on the provisions of the SPS Code and the MODU Code to the extent that is necessary in order to take account of the specific requirements of these vessels. BG Verkehr shall determine, on a case-by-case basis, which provisions are to be applied.

3.5 For special purpose ships and for offshore service vessels that are not high-speed craft, BG Verkehr may draw on the provisions of the SPS Code instead of the provisions of this Part to the extent that is necessary in order to take account of the specific requirements of such vessels. BG Verkehr shall determine, on a case-by-case basis, which provisions are to be applied.

3.6 For offshore service vessels designed as high-speed craft, the requirements of Chapter 5 shall apply.

3.7 For offshore supply vessels, the provisions of the OSV guidelines apply. Insofar as the OSV guidelines require compliance with the requirements laid down by BG Verkehr, the provisions of Chapter 2 shall apply.

3.8 For high-speed craft, the requirements of the HSC Code shall apply unless Regulation 3.7 applies.

3.9 For mobile offshore drilling platforms, the requirements of the MODU Code shall apply.

- 3.10 Ship's boats are not subject to the requirements of this Part. The master of the mother vessel shall be responsible for the use of the ship's boats. Ship's boats shall only be used if the ship's boat and associated launching devices are in a technically sound condition and the operating parameters specified by the manufacturer are complied with. In the event of obvious technical defects which pose an imminent danger to safety and environmental protection at sea and to health and safety at work directly related thereto, BG Verkehr may prohibit the use of the ship's boats and associated launching devices.

#### **4. Surveys and certification**

- 4.1 Cargo ships shall be surveyed in accordance with Regulations 8 to 10 of Chapter I of the SOLAS Convention. For the survey of high-speed craft, Regulation 1.5 of the HSC Code shall apply. Mobile offshore drilling platforms shall be subject to surveys in accordance with Regulation 1.6 of the MODU Code.

##### **4.2. Small craft**

- 1 Small craft are subject to:
  - a) an initial survey before entering into service,
  - b) an interim survey between the second and third years before the expiry date of the safety certificate, if the certificate has been issued for a period longer than three years,
  - c) a renewal survey within three months before the expiry date of the safety certificate, and
  - d) an annual survey of the radio equipment.
- 2 For craft under 6 m in length, the inspection of radio equipment shall be carried out by BG Verkehr as part of the surveys referred to in Regulation 4.2.1(a) to (c).
- 3 In the case of sailing craft, the rigging shall be checked for proper condition and function during all surveys referred under Regulation 4.2.1 (a) to (c). The part of a wooden mast passing through the deck and located below the deck shall be checked at each renewal survey. To this end, the mast must be pulled out. In the case of masts which are not more than two and a half years old at the time of the renewal survey, BG Verkehr may decide not to pull out the mast.
- 4 In order to take account of special circumstances, BG Verkehr may set shorter deadlines and impose further interim checks. Special circumstances include, in particular, the age of the craft, the construction material, the state of maintenance and repair or defects requiring monitoring.

- 4.3 During the initial survey and a renewal survey, the craft shall

also be inspected aground.

- 4.4 After a survey, no changes may be made to the construction, facilities, machinery, equipment or other objects which were covered by the survey without the approval of BG Verkehr.
- 4.5 If the survey revealed compliance with the applicable provisions of this Part, BG Verkehr shall issue a construction and equipment safety certificate and a radio safety certificate. Regulations 12, 14 and 16 of Chapter I of the SOLAS Convention shall apply, *mutatis mutandis*.
- 4.6 For special purpose ships and for offshore service vessels in accordance with Regulation 3.5, BG Verkehr shall issue, instead of the construction and equipment safety certificate in accordance with Regulation 4.5, a safety certificate for special purpose ships in accordance with the model provided in the Annex to the SPS Code.
- 4.7 For offshore supply vessels, BG Verkehr shall issue, in addition to the construction and equipment safety certificate in accordance with Regulation 4.5, a compliance acknowledgment in accordance with the model provided in Annex 2 to the OSV guidelines.
- 4.8 For offshore service vessels referred to in Regulation 3.6, BG Verkehr shall issue, instead of the construction and equipment safety certificate in accordance with Regulation 4.5, a national safety certificate for high-speed craft and a permit to operate high-speed craft.
- 4.9 For high-speed craft, BG Verkehr shall issue, instead of the construction and equipment safety certificate in accordance with Regulation 4.5, a safety certificate for high-speed craft in accordance with Regulation 1.8 of the HSC Code and a permit to operate high-speed craft in accordance with Regulation 1.9 of the HSC Code.
- 4.10 For mobile offshore drilling platforms, BG Verkehr shall issue, instead of the construction and equipment safety certificate in accordance with Regulation 4.5, a safety certificate for mobile offshore drilling platforms in accordance with Regulation 1.6 of the MODU Code.
- 4.11 Survey and certification obligations under other legislation remain unaffected.

## **5. Evidence**

- 5.1 Where a ship is required under this Part to comply with the requirements of a recognised organisation, the evidence shall be provided by means of a valid class certificate.
- 5.2 Where conformity with European directives that apply to specific products is required under this Part, evidence shall be provided by means of a declaration of conformity. The conformity assessment procedure must be carried out by a notified body.



The inspection modules in the combination B+D, B+E or B+F, or modules G or H shall be evidenced.

## **6. Existing rights**

- 6.1 For existing ships, certificates, acknowledgments and inspection lists issued before [insert: Date of entry into force] shall remain valid until their expiry, unless specified otherwise in this Part.
- 6.2 Where a certificate is renewed for an existing ship, the requirements of Regulation 3 need not be met to the extent that the ship continues to comply with the provisions and technical regulations applicable to the expired certificate. This shall not apply if more than one year has elapsed since the expiry of the last certificate or if otherwise specified in this Part.
- 6.3 Alterations, repairs, renewals and additions, as well as pieces of facilities and equipment which are newly procured, shall comply with the requirements of Regulation 3. In the case of major alterations, repairs, renewals and additions, Regulation 3 shall apply to the whole ship.

## **7. Ancillary provisions**

The safety certificate may be issued conditionally, with conditions imposed to the extent that this is necessary to ensure compliance with the requirements. Depending on the evidenced structural design and the equipment available, BG Verkehr may restrict the navigation area or permit voyages only under certain restricted operating and weather conditions, where this is necessary in order to safeguard the safety of the ship.

## **Chapter 2**

### **Cargo ships**

#### **1. General principles**

- 1.1 Chapters II-1, II-2, III, IV, V, VI, VII and XI-1 of the Annex to the SOLAS Convention and Section C.I (SOLAS) of Annex 1 to this Ordinance shall apply, mutatis mutandis, to cargo ships covered by this Part, unless otherwise specified in the following provisions.
- 1.2 If the requirements of one of the provisions of the SOLAS Convention or this Part to be applied under Regulation 1.1 cannot be met in individual cases, BG Verkehr may lay down equivalent facilities, aids and measures, taking into account the navigation area, type of ship and ship size.
- 1.3 For cargo ships below 150 gross tonnage, Regulations V/15, 20 to 26 of the Annex to the SOLAS Convention shall not apply.
- 1.4 The construction and maintenance of the hull, main and auxil-



iliary machinery and electrical and automatic systems shall conform to the standard prescribed for the type of ship by the classification rules of a recognised organisation, unless otherwise specified in the subsequent regulations.

- 1.5 The required fire safety equipment, life-saving appliances, radio and navigation equipment shall be approved in accordance with Directive 2014/90/EU, unless otherwise specified in the following regulations. Prescribed equipment and voluntary and additional equipment in accordance with Regulation 18.7 of Chapter V of the SOLAS Convention, which is not subject to Article 3 of Directive 2014/90/EU, must be approved by BG Verkehr, the Federal Maritime and Hydrographic Agency (BSH) or a recognised organisation.
- 1.6 Prescribed equipment lawfully manufactured or marketed in another Member State of the European Union or Türkiye or an EFTA State party to the EEA Agreement shall be recognised as equivalent.

## **2. Machinery and electrical systems**

BG Verkehr may, on application, authorise the supply of the electric or electrohydraulic main steering gear by an electrical circuit from the main switch panel if, in accordance with Regulation 29 of Chapter II-1 of the SOLAS Convention, an auxiliary steering gear without power is sufficient.

## **3. Fire safety**

- 3.1 On cargo ships of less than 300 gross tonnage, other than tankers, the fire extinguishing pump required by Regulation 10 of Chapter II-2 of the SOLAS Convention may be attached to the main propulsion engine if the shaft line can be easily separated from the main propulsion engine. The power of this pump and the associated piping system shall be such that at least one vigorous jet of water of at least 5 l/m<sup>2</sup> per minute can be supplied to anywhere in the ship.
- 3.2 Cargo ships of less than 300 gross tonnage shall be equipped with sufficient fire hydrants and these shall be distributed in such a way that a jet of water supplied by a single hose can reach any part of the ship. No fitting or international shore connection is required in engine rooms accordance with Regulation 10.2.1.7 of Chapter II-2 of the SOLAS Convention.
- 3.3 Each cargo ship of less than 500 gross tonnage shall carry at least three fire hoses, multipurpose nozzles and coupling keys. The individual hose length shall not exceed 15 m and in engine rooms 10 m. Only standard 52 mm Storz connectors shall be used as hose and nozzle couplings.
- 3.4 Cargo ships of less than 300 gross tonnage shall have at least three ABC portable 6 kg fire extinguishers in the accommodation area.
- 3.5 In engine rooms, portable foam extinguishing units as defined

in Chapter II-2, Regulations 5.3.2.1 and 5.3.2.2 of the SOLAS Convention are not required. In cargo ships of less than 300 gross tonnage, a foam fire extinguisher of at least 45 litres capacity is required in internal combustion engine rooms, or any other equivalent apparatus only for a total power output of 746 kW or more; a permanently installed fire-extinguishing system is not required.

- 3.6 On all cargo ships between 300 and less than 500 gross tonnage, two firefighters' outfits shall be carried. Spare air cylinders with a total air volume of at least 3 200 litres shall be carried.
- 3.7 On cargo ships of less than 300 gross tonnage, a smoke detection system for corridors, stairs and escape routes complying with Chapter II-2 Regulation 7.2.1 of the SOLAS Convention is not required.
- 3.8 Galley ducts need not comply with Regulation 7 of Chapter II-2 of the SOLAS Convention; however, they must be constructed from steel and vulnerable areas must be protected against effect of heat.
- 3.9 In spaces, sheds and cupboards for flammable liquids, including paints, a permanently installed fire-extinguishing device shall not be required if a 6 kg portable fire extinguisher for fire classes ABC is provided at the entrances.
- 3.10 The liquefied gas installation for household purposes must comply with the requirements of DIN EN ISO 10239:2015-05 in conjunction with the worksheet G 608, March 2012 edition of the Deutscher Verein des Gas- und Wasserfachs (DVGW), to be obtained from DVGW e.V., 53123 Bonn. Operation and periodic inspections of the installation must be carried out in accordance with the above-mentioned DVGW worksheet G 608. Periodic inspections shall be carried out at intervals of not more than two years.

#### **4. Equipment with life-saving appliances**

- 4.1 Cargo ships of less than 500 gross tonnage must carry the following life-saving appliances:
  - a) on each side of the ship, at least one automatically inflatable life-raft, as defined in paragraph 4.2 of the LSA Code, so that all persons on board can be accommodated on each side of the ship and configured such that life-rafts can float freely;
  - b) in addition, on one side of the ship, a rescue boat in accordance with paragraph 5.1 of the LSA Code under a launching appliance.

If the rescue boat referred to in point (b) of the first sentence also meets the requirements for lifeboats in accordance with paragraph 4.4 of the LSA Code and the capacity is sufficient for all persons on board, life-rafts on the side on which the boat

is installed may be omitted; unless the remaining prescribed life-rafts can be moved quickly from the other side of the ship, there shall also be automatically inflatable life-rafts on that side for all persons on board.

4.2 By way of derogation from point (a) of the first sentence of Regulation 4.1, tankers shall carry the following life-saving appliances:

- a) one motor lifeboat at each side, in accordance with paragraph 4.9 of the LSA Code, under launching appliances the capacity of which on each side is sufficient for all persons on board;
- b) one or more automatically inflatable life-rafts with a total capacity sufficient to accommodate all persons on board;
- c) if the life-rafts prescribed in subparagraph (b) cannot be moved quickly from one side of the ship to the other side, additional life-rafts so that the total capacity on each side is sufficient to accommodate all persons on board.

If one of the lifeboats referred to in point (a) of the first sentence also meets the requirements for a rescue boat in accordance with paragraph 5.1 of the LSA Code, the separate rescue boat referred to in the second sentence of paragraph 5.1.1.1 of the LSA Code may be omitted.

4.3 Cargo ships referred to in Regulations 4.1 and 4.2 may, instead of the life-saving appliances prescribed therein, carry the following life-saving appliances:

- a) a fully enclosed lifeboat as defined in paragraph 4.6 of the LSA Code with a total capacity to accommodate all persons on board which:
  - aa) is configured such that they can be launched over the stern in free fall by the crew,
  - bb) in the case of tankers, also meet the requirements of paragraph 4.9 of the LSA Code,
  - cc) is fitted under a launching device for controlled launching and repositioning into the embarkation position,
- b) in addition, at least one automatically inflatable life-raft to accommodate all persons on board;
- c) if the life-rafts prescribed in letter (b) cannot be moved quickly from one side of the ship to the other side, additional automatically inflatable life-rafts must be present so that the total capacity on each side is sufficient to accommodate all persons on board,

- d) in addition, on one side of the ship, a rescue boat in accordance with paragraph 5.1 of the LSA Code under a launching appliance.
- 4.4 In ships covered by Regulations 4.1 to 4.3, there shall be one lifejacket with a light for each person on board; in ships of 50 m or more in length there must also be six lifebuoys; and in ships of less than 50 m in length there must be at least four lifebuoys; two lifebuoys shall be fitted with self-igniting lights, two others with a floating lifeline of 30 m in length.
- 4.5 Where the deck from which the life-rafts in the water can be accessed with the ship in the lightest seagoing condition is more than 4.50 m above the water surface, life-rafts with launching appliances that can be launched by the crew shall be provided in place of the life-rafts prescribed in Regulations 4.1 to 4.3, but shall be configured such that they can float freely and can be freely ejected.
- 4.6 Cargo ships of 300 gross tonnage and more but less than 500 in tidal flat shipping on the Wadden Sea shall be equipped with at least one automatically inflatable life-raft with a total capacity sufficient to accommodate all persons on board and a rescue boat under launching appliance or a motorised boat approved by the former See-BG. The fitting of such a boat may be omitted if there is an alternative device for external rescue on board and the all-round view from the master's position allows persons in the water to be directly approached. For the rest, Regulation 4.4 shall apply.
- 4.7 Cargo ships of less than 300 gross tonnage in tidal flat shipping on the Wadden Sea shall be equipped with a rescue boat under launching appliance, which shall provide space for standard crew. Existing motorised boats approved by the former See-BG can continue to be used. If additional persons are to be carried, additional automatically inflatable life-raft capacity shall be carried. In addition, there shall be at least two lifebuoys, one with self-igniting light, the other with a floating lifeline of 30 m in length, and one lifejacket with light for each person on board. The fitting of such a boat may be omitted if an automatically inflatable life-raft with at least a total capacity sufficient to accommodate all persons on board as well as an alternative means of external rescue, and the all-round view from the master's position allows persons in the water to be directly approached and picked up. For the rest, Regulation 4.4 shall apply.
- 4.8 A line-throwing appliance need not be carried.

## **5. Subdivision and stability**

- 5.1 Existing approved stability documents shall remain valid provided that the conditions for their approval have not changed.
- 5.2 If a change in the unladen vessel weight, the longitudinal centre of gravity or vertical centre of gravity is established by BG Verkehr and the change is outside the limits set by the Intact

Stability Code, a new heeling test must be carried out. The stability book must be corrected in line with the new centre of gravity.

- 5.3 In the case of alterations affecting the hydrostatics of the vessel, new stability documents shall be drawn up on the basis of new lightship data and the new hydrostatics. The intact and damage stability criteria in force at the time of the alteration shall be complied with.
- 5.4 If new stability documents are produced for a ship in accordance with the Intact Stability Code, the heeling test to determine the lightship data shall not be more than five years ago.
- 5.5 For the use of hoists at sea, the requirements for 'Ships engaged in lifting operations' set out in Part B, Regulation 2.9 of the Intact Stability Code shall be complied with. If these requirements cannot be met, BG Verkehr may authorise the application of the relevant rules of the recognised organisation whose supervision the vessel is subject to.

## **6. Carriage of cargo**

- 6.1 BG Verkehr may, upon request, exempt ships which are subject to Regulation 5.6 of Chapter VI of the SOLAS Convention under this Part from being equipped with a cargo securing manual.
- 6.2 Grain shall only be carried as bulk cargo if an authorisation has been granted in accordance with Regulation 9 of Chapter VI of the Annex to the SOLAS Convention and the loading is in accordance with the grain loading plans or the loading is in accordance with Section A 9, Regulations 9.1.1 to 9.1.5 of the International Code for the Safe Carriage of Grain in Bulk (IMO Resolution MSC.23(59); VbBl. 1993 p. 835), Regulation 9.1.1 not applying to ships the keel of which was laid before 25 May 1980.
- 6.3 Authorisation for the carriage of grain is issued by BG Verkehr, which is also responsible for approving the evidence referred to in Chapter VI of the Annex to the SOLAS Convention and, in particular, for issuing the permit in accordance with Section A 9 of the International Code for the Safe Carriage of Grain in Bulk.
- 6.4 The documents referred to in No A 3.4 of the International Code for the Safe Carriage of Grain in Bulk must be carried on board and shall be presented upon request to the competent authority in the port of loading.

## **Chapter 3**

### **Small craft**

#### **1. Scope of application**

- 1.1 This Chapter applies to existing and new small craft which are subject to the safety requirements for cargo ships.

1.2 This Chapter does not apply to:

- a) offshore supply vessels;
- b) offshore service vessels.

## **2. Basic safety requirements**

2.1 Subject to the following provisions, small craft must comply with

- a) the classification rules of a recognised organisation relevant to the intended purpose; or
- b) the requirements of Annex I to Directive 2013/53/EU according to the design category relevant to the requested navigation area, in their entirety.

. In the case of Regulation 2.1(b), Article 14 of Directive 2013/53/EU shall apply, *mutatis mutandis*.

2.2 Small craft used for commercial passenger transport must, for compliance with Regulation 2.1(b), meet at least the design category 'B' requirements set out in Annex I to Directive 2013/53/EU.

## **3. Design and construction**

3.1 The strength of the hull and structures shall be consistent with the existing draught, the navigation area requested and the intended use.

3.2 Regulation 3.1 shall be deemed to have been fulfilled in the event of compliance with Regulations 2.1 and 2.2, unless otherwise specified in the following Regulations.

3.3 Regulation 2.1(b) does not apply to small craft which are special craft or which are subject to specific safety requirements due to their use

- a) for the transport of dangerous cargo, or
- b) as a special purpose ship.

3.4 Small craft used for commercial passenger transport shall not be open vessels. All passengers shall be provided with protected seats. Free access must be ensured, enabling unrestricted occupation of and exiting from seats.

## **4. Subdivision, stability**

4.1 Small craft must have sufficient stability in all loading states intended for the ship concerned, taking into account the design, size, intended use and navigation area under the influence of wind, swell and all persons on board. They shall be subdivided by bulkheads which shall be watertight up to the exposed deck, in accordance with the generally accepted state of the

art.

- 4.2 All vessels with hull length greater than 15 m must have at least the following watertight transverse bulkheads:
- a) a collision bulkhead at a distance of not less than 0.02 LH but not more than 0.05 LH behind the stem post;
  - b) an after peak bulkhead, if practicable;
  - c) two bulkheads delimiting the engine room.
- 4.3 The number of openings in watertight subdivisions shall be limited to a design-appropriate and proper minimum, taking into account the type of use of the vessel. If holes are made in watertight bulkheads and interior decks for access, piping, ventilation, electrical cabling or similar, provision shall be made to maintain watertight integrity.
- 4.4 The stability requirements of Part A of the Intact Stability Code shall be met unless otherwise specified in this Chapter.
- 4.5 Initial stability (G<sub>Mo</sub>), corrected for the effect of the exposed surface of liquid-containing tanks, shall not be less than 0.35 m.

## **5. Freeboard**

- 5.1 Small craft must be equipped with watertight and weather-tight closure devices to prevent water entering the craft under any sea conditions and to ensure adequate air supply. Engine room ventilation must be equipped with appropriate means to prevent the unimpeded entry of water. Undecked areas must be self-bailing or have a comparable bilge capability. Part 7 shall not apply to these craft.
- 5.2 Regulation 5.1 shall be deemed to have been fulfilled in the event of compliance with Regulations 2.1 and 2.2, unless otherwise specified in the following Regulations.
- 5.3 In the case of Regulation 2.1(b), seacocks and openings in the shell plating shall meet at least the requirements of DIN EN ISO 9093:2021-05, which may be subject to conditions or constraints depending on the navigation area and type of use. Ball cocks which cannot be inspected during a survey in accordance with Chapter 1 Regulation 4.2, shall not be more than five years old. Seacocks and openings in the shell plating made of non-metallic materials must fundamentally be avoided as far as possible. Openings in the shell plating which cannot be closed on the hull are not permitted.
- 5.4 Portlights and windows on small craft must be positioned at a minimum coaming height of 610 mm above the design waterline. All windows and portlights must be able to withstand the highest expected wave and wind conditions in the craft's intended area.



- 5.5 For hatches which are not made of metal and which lead from the weather deck to spaces underneath, portable covers must be provided which, in the event of breakage, can be installed quickly and prevent the entry of significant quantities of water.
- 5.6 In the case of Regulation 2.1(a), the railing must be at least 100 cm high and at least 60 cm in the case of sailing craft. Rails should be 30 cm apart. Detachable rails shall be made of stainless wire rope.

## **6. Fire safety**

By way of derogation from Chapter 2 Regulation 3, the following Regulations shall apply:

- 6.1 If, in the case of accommodation spaces situated below deck which do not have direct access from the free deck, there is a risk that the escape route through the adjacent spaces will be cut off in the event of a fire, an emergency exit shall be provided in accordance with Regulation 2.1.
- 6.2 Power-operated fans must be adjustable from the outside and openings of ventilation devices for accommodation and engine spaces must be capable of being locked from the outside in compliance with Regulation 2.1.
- 6.3 Liquefied gas installations must comply with the requirements of DIN EN ISO 10239:2015-05 in conjunction with the worksheet G 608, March 2012 edition of the Deutscher Verein des Gas- und Wasserfachs (DVGW), to be obtained from DVGW e.V., 53123 Bonn. Operation and periodic inspections of the installation must be carried out in accordance with the above-mentioned DVGW worksheet G 608. Periodic inspections shall be carried out at intervals of not more than two years.
- 6.4 Oil heating systems, engine room ventilation and fuel delivery pumps shall be equipped with emergency stop devices outside the rooms where these systems are located.
- 6.5 Petrol shall only be used for the operation of outboard engines. Other uses, in particular in cooking appliances or heating systems, are prohibited.
- 6.6 Fuel lines shall be made of metal as far as this is structurally possible. Hoses are allowed in limited lengths, provided that they meet at least the requirements of DIN EN ISO 7840:2021-05. Non-fire-resistant fuel hoses shall not be used.
- 6.7 Engine rooms must be insulated with non-combustible material, which is impenetrable to oil mist. With regard to the material, Regulation 2.1 shall be observed.
- 6.8 Equipment materials shall be flame resistant in accordance with Regulation 2.1.
- 6.9 The individual hose length for fire extinguishing hoses shall not exceed 15 m, or 10 m in engine rooms. There must be at least



sufficient fire hoses to reach any part of the ship using a jet of water supplied by a single hose length. Craft under 12 m in length do not need fire extinguishing pumps or fire extinguishing hoses.

6.10 A personal firefighter's outfit does not need to be carried.

6.11 Fire extinguishers and fire extinguishing equipment must comply with the following table:

	ABC 6 kg	CO <sub>2</sub> 5 kg	Fire blanket	Fire extinguishing system (CO <sub>2</sub> / Aerosol)
Superstructures L > 12 m	3 (1 per 20 m <sup>2</sup> )			
Superstructures L ≤ 12 m	1			
Wheel house	1	1		
Galley	1		1	
Engine room, in- stalled power less than 120 kW		1		
Engine room, in- stalled power greater than 120 kW		2		1 (alternative to CO <sub>2</sub> extinguishers)
Battery room		1		
Room with flammable liquids	1			
Switch panel		1		

6.12 Small craft equipped with electric propulsion systems must have an extinguishing capability suitable for the specific battery system.

## 7. Machinery installations

7.1 With regard to the individual components of the machinery installations, Regulation 2.1 shall be observed. This applies in particular to

- a) main propulsion and auxiliary motors, including their starting devices, closing devices, and to opening, positioning and cross-section of the supply air line and exhaust air duct,
- b) bilge systems and combined bilge/seawater systems, including alarms in enclosed engine rooms,
- c) fuel systems and fuel tanks, fuel lines made of steel pipes and hoses used to a limited extent,
- d) steering and propulsion systems,
- e) propeller shafts and transmissions.

7.2 Main propulsion engines must be diesel or electric engines. Petrol engines are only permitted as outboard motors.

7.3 Main propulsion engines shall be fitted with a data plate. The following particulars shall be indicated on the data plate of the main propulsion engines: Rated power in terms of continuous power and associated rated speed, engine number, year of construction, engine type designation, manufacturer.

7.4 Accumulators installed in small craft must be maintenance-free.

7.5 The number and capacity of bilge pumps must comply with the following table, without prejudice to Regulation 9.7:

	3.60 m ≤ L < 8 m	8 m ≤ L < 12 m	12 m ≤ L < 24 m
Power-operated bilge pump	-	1	1
Hand bilge pump	1	1	1
Capacity	5 m³/h	8 m³/h	12 m³/h

A

hand bilge pump must be provided for pumping out oily residues in the bilge.

If the main propulsion is by means of an electric motor and accumulators, separate construction regulations must be complied with, which must be agreed with BG Verkehr.

7.6 All small craft must be equipped with an emergency steering system which can be put into service quickly if necessary. Small craft equipped with a power-operated main steering gear must be equipped with an auxiliary steering gear. The auxiliary steering gear shall be strong enough and capable of steering the small craft at a speed sufficient for control. In the case of power-driven rudders, the rudder position must be indicated at the main helmstand. In the case of small craft equipped with a mechanical main steering gear, an emergency tiller is sufficient. For small craft under 5 m in length, a set of paddles is sufficient.

## 8. Life-saving appliances

8.1 By way of derogation from Chapter 2 Regulation 4, the following equipment must be carried:

Length Equip ment	3.60 m ≤ L < 8 m	8 m ≤ L < 12 m	12 m ≤ L < 24 m
Life-raft with capacity for all persons on board	-	x	x
Immersion suit for each crew member	-	x	x
Life jacket for each person on board	x	x	x

Safety vest for each crew member	x	x	x
Thermal protection aids for voyages between November and March	2	4	8
Lifebuoy	1	2	4
a) of which lifebuoy with self-igniting night light	1	1	1
b) of which 30 m of floating line	-	1	1
Parachute flares red	4	8	12
Hand flares red	2	4	8
Smoke pots orange	2	2	2

Key: X = Yes

8.2 Life-rafts shall fundamentally be positioned on the weather deck or freeboard deck. External influences, such as sea wash, must be taken into account. Storage in watertight or self-bailing compartments is also permitted, provided that the cover is easily opened by a person even under water pressure. The launching of life-rafts shall not be hindered by their positioning or storage in enclosed compartments.

8.3 In the case of sports training craft, the safety vest with safety belt and belt line and carabiner hooks in accordance with DIN EN ISO 12402-2:2021-04 with a minimum buoyancy capacity of 150N must be carried for all persons on board.

8.4 There shall be a ladder securely attached to the deck with fixed stringers and fixed rungs, which, when used, shall fold down from the deck to at least 50 cm below the water surface. The ladder must be accessible for a person in the water without assistance from others or be capable of being deployed by him without assistance from others.

8.5 Plans and procedures for the recovery of persons from the water must be in place.

8.6 Life-saving appliances prescribed for small craft must be approved in accordance with Directive 2014/90/EU, which is to be applied in accordance with Section D Point 10 of the Annex to the Ship Safety Act.

## 9. Other equipment

### 9.1. Radio

- 1 The radio equipment must comply with the requirements of Chapter IV SOLAS for the navigation area.
  - 2 Equipment with a NAVTEX receiver is only required if the VHF coverage area of German coastal stations is left.
  - 3 By way of derogation from Regulation 9.1.1, for vessels under 6 m in length:
    - a) a portable VHF radiotelephone apparatus with a transmitter and receiver unit for survival craft with a back-up battery for emergency situations that has a non-replaceable seal must be on board, and
    - b) an EPIRB with an integral global navigation satellite system (GNSS) must be installed.
  - 4 By way of derogation from Regulation 9.1.1, other satellite communication equipment may also be used in sports training craft for navigation areas A2 and A3, provided that these are recognised as equivalent by the Federal Maritime and Hydrography Agency, a duplication requirement may be omitted.
  - 5 In the case of sailing craft where the radio antenna is attached to the mast, an emergency antenna shall be provided.
- 9.2. The attachment of positioning lights and the required sound-signalling system must comply with the International Regulations for Preventing Collisions at Sea of 1972 (Collision Prevention Regulations).
- 9.3 The craft shall be equipped with AIS-SART or radar SART and GPS receivers and with a Class A or B automatic identification system (AIS) in the case of class A commercial passenger transport.
- 9.4 The navigation equipment must comply with the requirements of Section C.I.4 of Annex 1:
- a) For vessels of 15 m or more in length, the equipment must comply with the requirements of Section C.I.4, point 1.1 and point 3 of Annex 1.
  - b) For vessels under 15 m in length, the equipment must comply with the requirements of Section C.I.4, point 1.2 and point 2 of Annex 1.
  - c) For vessels under 6 m in length, BG Verkehr may allow derogations from parts of the equipment obligations, depending on their size and structural possibilities.
- 9.5 Sailing craft of design category 'A' or 'B' as defined in Annex I to Directive 2013/53/EU must carry a sufficiently sized storm

sail, in particular a storm jib and a mainsail with at least two reef rows. If the mainsail is fitted with a rolling system, a try sail that can be set independently of the roller shall be carried.

- 9.6 Sailing craft shall be equipped with a cutting device for standing rigging.
- 9.7 In addition to the (hand) bilge pumps required by Regulation 7.5, at least two bailers and material suitable for controlling leaks must be on board.
- 9.8 A safety briefing for passengers and recreational craft driving licence applicants and an introduction to the muster list must be provided before each voyage starts and shall be documented.

## 10. Navigation area and voyage restrictions

- 10.1 BG Verkehr may locally restrict the navigation area in accordance with the intended use and impose associated weather clauses where this is necessary because of the specific characteristics of the craft. In addition to the intended use, account may, in particular, be taken of age and state of maintenance, hull material used and indicators of fatigue and the weather conditions to be expected in the planned navigation area.
- 10.2 In the case of Regulation 2.1(a), the navigation area shall not exceed the design of the craft as certified by the respective classification society.
- 10.3 In the case of Regulation 2.1(b), a maximum navigation area shall apply in accordance with the following table:

Design category	C	B	A
Boat type	Max. wind force 6 Bft. Max. wave height 2 m	Max. wind force 8 Bft. Max. wave height 4 m.	Max. wind force > 8 Bft. Max. wave height > 4
Open	5 sm	-	-
Partially decked	10 sm	20 sm	-
Decked	35 sm	150 sm	Unrestricted
Small craft for passenger transport under 8 m in length	-	6 sm	6 sm

Small craft for passenger transport 8 m or more in length	-	20 sm	20 sm
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10.4 BG Verkehr shall specify the maximum number of persons on board.

10.5 Small craft carrying passengers commercially shall not commence a voyage

- a) if ice formation or existing ice is predicted in the navigation area,
- b) in the case of storm winds (from a wind force of 8 Beaufort) or a storm warning,
- c) in the case of strong onshore winds with a wind force of 6 or 7 Beaufort, or
- d) if the visibility is less than 500 m.

10.6 Regulation 10.5(d) shall not apply where radar equipment approved on the basis of Directive 2014/90/EU and operating correctly is present and, in addition to the master, there is another qualified person on board to operate the radar equipment.

10.7 Craft may not leave wind-sheltered coastal areas at times of high offshore winds. Outside the wind-sheltered coast, small craft must immediately seek land protection in the event of developing heavy winds or storm or high wind warnings; in the event of a developing storm, they must make for the nearest port immediately.

10.8 The decision of the master to abandon a planned voyage or to change or cancel a voyage that has already begun shall be based on the heavy wind and storm warnings issued by the German Weather Service, as well as the ice reports and ice maps of the Federal Maritime and Hydrography Agency.

## 11. Derogations and exemptions

BG Verkehr may grant exemptions, provided that comparable safety of the craft is ensured by other means. In particular, for a small craft for which the requirements of this Chapter cannot be met because of its small size or particular design, it may be specified, on a case-by-case basis, which requirements must be met in order not to endanger the persons on board and other water users.

## 12. Transitional provisions

- 12.1 For small craft under 8 m in length which entered into service for the first time before [insert: Date of entry into force of this amending Ordinance], the certificate obligation and the obligation to present pursuant to § 9(4) shall apply from [insert: Date of the first day of the seventh calendar month following the promulgation of this amending Ordinance], if the craft is used for commercial passenger transport, for all other vessels from [insert: Date of the first day of the nineteenth calendar month following the promulgation of this amending Ordinance]. Regulations 10.5, 10.6, 10.7 and 10.8 remain unaffected.
- 12.2 The validity of certificates issued before [insert: Date of entry into force of this amending Ordinance] in accordance with § 14 of the Maritime Recreational Craft Ordinance remains unaffected. The renewal of a certificate referred to in the first sentence shall be permitted, but not later than 31 December 2033. Until then, the safety requirements under the Guidelines on safety rules for recreational craft used commercially for training purposes in accordance with § 52a of the Ship Safety Ordinance 1997 (Guidelines for training craft) of 25 August 1997 (VkB1. p. 572).

## **Chapter 4**

### **Special craft**

#### **1. Design and construction**

- 1.1 Chapter 2 Regulation 1 paragraph 4 shall not apply to special craft that have a valid construction and equipment safety certificate on 30 September 2015.
- 1.2 Ships referred to in paragraph 1 shall, in their construction and strength, and in the construction of machinery and electrical systems, be designed, equipped and maintained in such a way that they satisfy the stresses required by the intended use. In the case of alterations that could impair the strength of the ship, evidence of sufficient strength of the hull shall be furnished by arithmetic proof.

#### **2. Tugs**

For tugs which are also used as port assistance tugs, the following applies:

- 2.1 Operating compartments on the bridge must be arranged and designed in such a way as to ensure the master's full view of each manoeuvrability situation. The view ahead and astern from the operating panels for main propulsion systems and winches from the bridge must be ensured.
- 2.2 The bridge must be equipped with a day vision radar device and an additional monitor with day visibility characteristics, the monitor being positioned in such a way that the radar picture can be observed in the direction of travel even in the event of a reverse movement.

- 2.3 The front, side and rear windows of the wheel house at eye level must be tilted in at the bottom so as to be non-glaring.
- 2.4 Windscreen wipers driven by electric motors shall be provided for all wheelhouse windows at eye level, with the exception of windows in doors and sliding windows on the sides.
- 2.5 Port assistance tugs must be equipped with two main propulsion systems which are independent of each other, including the propeller system. In the event of a failure of one of the two main propulsion systems, the second must remain fully manoeuvrable.
- 2.6 All the key operating and monitoring equipment for the main propulsion systems, associated power units and other operating equipment must be installed on the bridge.
- 2.7 Operating panels for towing winches shall be provided on the bridge and operating panels for stores winches shall be provided on the bridge and on deck. Operating panels shall be equipped with operating and monitoring elements.
- 2.8 There shall be two devices acting independently of each other to allow the slipping of the towing hook or the unlocking of the towing winch. One of the devices shall remain operational even in the event of malfunction. Means shall be provided for the rapid activation of towing hooks and winch from the bridge and from the deck. If the tugs are equipped with a hydraulic towing hook, one activation system is sufficient. Activation elements for the towing hook shall be located on the bridge and on the deck.
- 2.9 An entry gate must be provided on each side in the bulwark in order to provide assistance in the case of 'human overboard'.

### **3. Public authority craft**

In the case of public authority craft for which certificates have been requested, BG Verkehr may grant exemptions from the requirements that are to be met in this Part to the extent necessary for the performance of public authority tasks.

### **4. Non-self-propelled watercraft**

- 4.1 Non-self-propelled watercraft with a permanent crew shall be treated as self-propelled craft with regard to the requirements for intact and damage stability and life-saving appliances.
- 4.2 The GMDSS radio equipment may be replaced by a hand-held radio with DSC function 3.
- 4.3 Non-self-propelled watercraft are exempted from Regulations 15, 17, 18, 19, with the exception of paragraph 19.2.1.7, in accordance with Chapter V, Regulation 3.1 of the Annex to the SOLAS Convention. Chapters II-1, II-2, III, IV, VI, VII and XI-1 of the Annex to the SOLAS Convention and Section C.I of Annex 1 to this Ordinance shall apply to non-self-propelled water-



craft only to the extent that BG Verkehr specifies on a case-by-case basis that these requirements are to be met.

## **5. Floating machinery**

In the case of floating machinery, BG Verkehr shall specify, taking into account its size and intended use, what other requirements are to be met in relation to construction, equipment and operation.

## **Chapter 5**

### **Offshore service vessels**

1. Offshore service vessels shall be constructed and maintained in such a way that they comply with the requirements of a recognised organisation as regards hull, engines, hoists, electric and steering, control and monitoring equipment.
2. Offshore service vessels which, by design, are not high-speed craft shall comply with the requirements of the SPS Code 2008, unless otherwise specified below. For the purposes of applying the SPS Code 2008, offshore service personnel shall be considered as special purpose personnel.
  - 2.1 Offshore service vessel which, by design, are not high-speed craft shall be subject to the surveys prescribed by the SPS Code 2008.
  - 2.2 For offshore service vessels that have to comply with the requirements of the SPS Code 2008, BG Verkehr may set different requirements if these ensure a comparable level of safety and the requirements of the 2008 SPS Code cannot be implemented or can only be implemented with disproportionate effort due to the size or particular design characteristics of the vessel.
3. Offshore service vessels which, by design, are high-speed craft shall comply with the requirements of the HSC Code 2000, unless otherwise specified below.
  - 3.1 Offshore service vessels which, by design, are high-speed craft shall be subject to the surveys prescribed by the HSC Code 2000. For vessels under 24 m in length, Regulation 1.5.1.3 of the HSC Code shall not apply.
  - 3.2 In addition to the surveys described in 3.1, for vessels under 24 metres in length, at least one interim survey for the inspection of safety equipment, radio equipment, other equipment and devices shall be carried out between the second and third year of the safety certificate.
  - 3.3 Intact stability must comply with the intact stability requirements of the HSC Code 2000 for cargo craft. A weight of at least 90 kg for each person on board should be taken into account when calculating the applicable loading conditions. This weight is intended only to take into account body weight and

clothing worn on the body. Baggage and consumables carried by offshore personnel shall be taken into account separately in the designated spaces on board.

- 3.4. The following derogations may be applied to the subdivision and damage stability of offshore service vessels with a length of 45 m and less:
  - 3.4.1 Regulation 2.6.7 of the HSC Code 2000 on the extent of side damage shall only apply to the front third of the length L. The extent of the damage in this area shall be assumed at any point along the vessel. In the rear two thirds of the length L, damage between the watertight main transverse bulkheads shall be assumed. Its extent shall be taken into account here from the keel to the deck and from the side of the vessel to the midship line.
  - 3.4.2 Regulation 2.6.8.1.2 of the HSC Code 2000 on the extent of stern damage shall not apply.
  - 3.4.3 Regulation 2.6.9 of the HSC Code 2000 on the extent of bottom damage in areas vulnerable to raking damage applies only in the front third of the length L. The extent of the damage in this area shall be assumed at any point along the vessel. In the rear two-thirds of the length L, the damage referred to in 2.6.9 of the HSC 2000 code shall not be assumed.
  - 3.4.4 Regulation 2.6.10 of the HSC Code 2000 on the extent of bottom damage in areas not vulnerable to raking damage applies only in the front third of the length L. The extent of damage in this area is to be calculated and assumed in accordance with the requirements of Regulation 2.6.10.2 of the HSC Code 2000. In the rear two-thirds of the length L, the damage referred to 2.6.10 of the HSC 2000 Code shall not be assumed.
  - 3.4.5 Regulation 2.6.11 of the HSC 2000 Code relating to the determination of simultaneous damage to multiple hulls by a 7 m wide obstacle shall apply in accordance with the damage assumptions for Regulation 2.6.9 and 2.6.10 of the HSC Code 2000, only in the front third of the length L.
- 3.5 Sections C and D of Chapter 7 of the HSC Code 2000 shall not apply. Regulation 17 of Chapter II-2 of the SOLAS Convention applies.
- 3.6. For equipment with life-saving appliances, the following applies:
  - 1 Regulations 8.3.5.1, 8.7.4, 8.7.6, 8.7.7, 8.7.8, 8.7.9, 8.7.10, 8.7.11 and 8.10 of the HSC Code 2000 shall not apply to vessels under 30 m.
  - 2 Immersion suits must be available on board for all crew members, offshore service personnel and special purpose personnel on board.
  - 3 Open life-rafts that can be used on both sides in accor-

dance with Annex 11 to the HSC Code 2000 must not be used.

- 3.7 The prescribed fire safety equipment, life-saving appliances, maritime pollution prevention equipment, radio and navigation equipment shall be approved in accordance with Directive 2014/90/EU, unless otherwise specified in the following regulations. The prescribed equipment, as well as voluntary and additional equipment in accordance with SOLAS Chapter V Regulation 18.7, which is not subject to Directive 2014/90/EU, shall be approved by the Federal Maritime and Hydrographic Agency or another notified body.
- 3.8 Offshore service vessels under 30 m in length, which are high-speed craft by design, shall be exempted from the obligation to be equipped with a sound signal receiver in accordance with the HSC Code 2000.
- 3.9 Where a certificate is renewed for an existing offshore service vessel which is a passenger high-speed craft by design, the requirements of Regulation 3 need not be met to the extent that the ship continues to comply with the provisions and technical regulations applicable to the expired certificate. This shall not apply if more than one year has elapsed since the expiry of the last certificate.
4. The area that is pressed against the offshore construction when the offshore service personnel embark and disembark must be designed and protected in such a way that it withstands the loads and contact damage is avoided. The requirements of the recognised organisation to whose monitoring the ship is subject in accordance with Regulation 1 shall be complied with.
5. Offshore service personnel must have completed safety training in accordance with relevant industry standards and be fit for maritime service in accordance with maritime labour law.

## **Chapter 6**

### **Certificate model**

The models of the following certificates and acknowledgments shall be published in accordance with this Ordinance in the Transport Gazette:

1. Construction and equipment safety certificate;
2. Radio safety certificate;
3. Safety certificate for special purpose ships;
4. Acknowledgment of conformity in accordance with the OSV guidelines;
5. Safety certificate for high-speed craft;

6. Safety certificate for mobile offshore drilling platforms
7. Acknowledgment of exemption from certification for small craft used for non-economic purposes.'

e) Part 7 is amended as follows:

a%6) In Regulation 1.2.1, the words 'Federal Navy' are replaced by the words 'Federal Armed Forces'.

b%6) In Regulation 1.2.4, the comma, the subsequent words 'which are used non-commercially and exclusively for sports or pleasure purposes' and the subsequent semi-colon are deleted.

c%6) Regulation 1.2.6 is repealed and Regulation 1.2.7 becomes Regulation 1.2.6.

d%6) In Regulation 2.1.5, the words 'up to 100 gross tonnage' are replaced by the words 'under 24 m in length'.

e%6) Regulation 3 is amended as follows:

a%7) The following Regulation 3.1 is inserted before the current Regulation 3.1:

'3.1 For all ships, there must be an effective weathertight closure state for the freeboard to be granted. The closure state and compliance with the Regulations of this Part shall be documented in a closure plan.'

b%7) Current Regulations 3.1 and 3.2 become Regulations 3.2 and 3.3.

c%7) Current Regulation 3.3 is repealed.

f%6) Regulation 4 is amended as follows:

a%7) In the heading, after the words 'passenger ships', the words 'and offshore service vessels' are added.

b%7) The wording becomes Regulation 4.1.

c%7) After Regulation 4.1, the following Regulation 4.2 is added:

'4.2 Offshore service vessels, which are high-speed craft by design and are under 24 m in length shall, by way of derogation from the Regulations of the HSC Code 2000, be subject to the requirements of Regulation 3.1 of Chapter 5 of Part 6 of Annex 1a with regard to surveys.'

g%6) Regulations 5.1 and 5.2 are replaced by the following Regulations 5.1 and 5.2:

'5.1 BG Verkehr shall issue a minimum freeboard. BG Verkehr shall issue a freeboard mark to craft that have received a freeboard certificate. For vessels with a freeboard length of less than 18 m, the freeboard shall be determined on the basis of the stability requirements and the struc-

tural strength of the hull. Chapter III of Annex I to the Load Line Convention shall not apply.

5.2 The freeboard mark shall be in accordance with the form of the National Load Line Certificate in accordance with the model in Rule 9 of this Part. It shall be permanently installed on both sides of the vessel in colour contrasting with the hull at half the load line length. The minimum freeboard referred to in Regulation 5.1 shall be marked at half the length of the ship on both sides of the vessel. The mark shall be made by a line 300 mm wide and 25 mm high, in colour contrasting with the hull.'

h%6) Regulation 6.2 is worded as follows:

'6.2 If, in view of the low risk and the particular conditions of use of the vessel, BG Verkehr considers it inappropriate or unnecessary to apply certain provisions of this Part, it may exempt from compliance with these provisions individual vessels which, during their operation, do not travel more than five nautical miles from the nearest land or operate only in limited weather and sea conditions.'

i%6) In Annex to Part 7, in the row in the middle column of the table beginning with the words 'Minimum freeboard', the words 'amount to 5 % of the width of the vessel, but not less than' are deleted and the words 'amount to' are inserted after the specification '200 mm'

11. Annex 2 is amended as follows:

a) Section A, point 1 is amended as follows:

a%6) In item (I), the following point (13b.) is added:

'(13b.) Certificate for polar ships conforming to SOLAS Regulation XIV/3 in conjunction with the Polar Code (Resolution MSC385(94) BG Verkehr'.

b%6) Item (II) is amended as follows:

a%7%7) The following point (14a.) is inserted after point (14.):

'(14a.) International oil pollution prevention exemption certificate for unmanned non-self-propelled barges (UNSP barges) in accordance with MARPOL Annex I, Regulation 3 paragraph 7 BG Verkehr'.

b%7%7) After point (16.), the following points (16a.) and (16b.) are inserted:

'(16a.) International sewage pollution prevention certificate in accordance with MARPOL Annex IV, Regulations 5 and 6, BG Verkehr

(16b.) International sewage pollution prevention exemption certificate for unmanned non-self-propelled barges (UNSP barges) in accordance with MARPOL Annex IV, Regulation 3, paragraph 2, BG Verkehr'.

c%7%7) The following point (17b) is inserted after point (17a):

‘(17b.) International air pollution prevention exemption certificate for unmanned non-self-propelled barges (UNSP barges) in accordance with MARPOL Annex VI, Regulation 3 paragraph 4 BG Verkehr’.

c%6) Item (VII) is amended as follows:

a%7%7) In point (24.), points (c) and (d) are repealed.

b%7%7) Point (26.) is repealed.

b) Section A point 5 is worded as follows:

‘5. Test voyage certificates

5.1 A test voyage is the test carried out on a ship at sea before it is first put into service or put into service again after alteration or repair.

5.2 The German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication shall, with the agreement of the Federal Ministry for Digital and Transport, lay down the safety requirements for test voyages referred to in point 5.1, unless they are bindingly laid down otherwise, and shall publish them in the Transport Gazette.

5.3 The owner of a vessel flying the German flag must ensure that, on test voyages in German inland waters and German coastal maritime territory or from one German port to another German port, a valid test voyage certificate is issued by the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication, in compliance with the safety requirements for seagoing vessels on test voyages (VkBl. 2021 p. 110) as amended, is carried.

5.4 The owner of a vessel not flying the German flag and carrying out a test voyage in German inland waters and German coastal maritime territory sea or from a German port to another port may, on request and subject to compliance with the safety requirements for seagoing vessels flying the German flag, be issued with a test voyage certificate issued by the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunication.’

c) Section B is amended as follows:

a%6) In point 1.2, the second sentence is repealed.

b%6) The second sentence of point 4(b) is worded as follows:

‘Certificates issued by recognised classification societies concerning the absence of tributyltin compounds (TBT-free certificate) and the absence of cybutryne shall be recognised.’

12. The appendix to Annex 1 is worded as follows:

'Appendix to Annex 1 (Tidal flat shipping on the Wadden Sea)

§ 1

Scope of application

(1) This Appendix shall apply to new passenger ships in tidal flat shipping on the Wadden Sea regardless of length and gross tonnage.

(2) For passenger ships referred to in paragraph (1), the provisions of Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (Recast) (OJ L 163, 25.6.2009, p. 1), as amended by Delegated Regulation (EU) 2022/1180 (OJ L 184, 11.7.2022, p. 1), as amended, shall apply, unless otherwise provided for in this Appendix.

§ 2

Definitions

(1) For the purpose of this Appendix,

1. **new passenger ship**: a ship the keel of which was laid on or after 1 July 1998 or which was at a similar stage of construction on that date; the expression 'similar stage of construction' means the condition indicating the start of construction of a particular ship or vessel whereby the assembly of the ship has started using at least 50 tonnes or 1 % of the estimated total building material requirements, whichever is less;

2. **domestic voyage**: a voyage in maritime territories from a German port to the same or another German port;

3. **tidal flat shipping on the Wadden Sea**: domestic voyage on the tidal flats of the North Sea, where high-sea conditions are excluded; this covers the following areas:

- a) the Ems to Borkum,
- b) the Wadden Sea between the East Frisian mainland from Knock to Schillighörn and the East Frisian islands,
- c) the Jade to the line joining Minsener Oog and Langwarden,
- d) the Bay of Meldorf area and the area between Büsum, Blauortsand, Tertiussand, Trischen and the Hohen Ufer of Dieksand,
- e) the Wadden Sea from St Peter Ording to Friedrichskoog with the line joining St Peter Ording beacon and the Blauort sandbank as the seaward boundary,
- f) the Wadden Sea between the west coast of Schleswig-Holstein from Westerhever Sand to Hindenburgdamm and the offshore islands,



g) the Wadden Sea between the mainland of Hindenburgdamm and the German border.

(2) The definitions laid down in Directive 2009/45/EC shall also apply.

### § 3

#### Surveys and certification

(1) Passenger ships engaged in tidal flat shipping on the Wadden Sea shall be surveyed in accordance with the requirements of Directive 2009/45/EC.

(2) Passenger ships engaged in tidal flat shipping on the Wadden Sea shall receive certificates in accordance with Directive 2009/45/EC setting out the specific safety standard in the Annex to the certificate, including the restricted navigation area.

### § 4

#### Navigation restriction

For passenger ships engaged in tidal flat shipping on the Wadden Sea, the keel of which was laid on or after [insert: Date of entry into force of this amending Ordinance], the following applies:

1. In the case of hurricane with a wind force of 12 Beaufort, they shall not commence the voyage;
2. In the event of a developing hurricane, they must make for the nearest safe port immediately.

The decision of the master of a passenger ship engaged in tidal flat shipping on the Wadden Sea to abandon a planned voyage or to change a voyage that has already begun in accordance with the provisions of this Part shall be based on the storm warnings issued by the German Weather Service. Points 1 and 2 shall not apply if the master opts to weather the storm.

### § 5

#### Safety standard

(1) This Appendix lays down a specific safety standard, the rules of which are aligned to one another. Therefore, the particular safety standard can only be granted if the rules of the Appendix are fully applied.

(2) The structure of the Appendix follows the numbering of Annex I to Council Directive 2009/45/EC.

#### **For Annex I**

#### **For Section 1**

#### **Safety requirements for new passenger ships the keel of which was laid or**



which were at a similar stage of construction before 19 September 2021 engaged on domestic voyages.

**For Chapter II-1 Construction**

**For Part B Intact stability, subdivision and damage stability**

**For Part B-1 Ships constructed on or after 1 January 2009 – option of applying Resolution MSC.216(82)**

Class B, C and D ships the keel of which was laid on or after 1 January 2009, and before 19 September 2021 or which were at a similar stage of construction on that date, shall apply the requirements in Part B-2 taking into account the particular safety standard of this Annex or, alternatively, the appropriate provisions of SOLAS Chapter II-1, Part B, as laid down in Annex 2 of Resolution MSC.216(82).

**For Part B-2 Ships constructed before 1 January 2009**

**For 1 Determination of intact stability (stability of the undamaged ship)**

For passenger ships of 15 m or more in length:

These shall, in all loading conditions in accordance with point 3 of this Regulation, satisfy the following stability criteria after due correction for the effect of exposed surface of liquids in tanks in accordance with the assumptions of paragraph 3.3 of IMO Resolution A.749(18) as amended, or equivalent.

**1. Static criteria**

- a) The area below the GZ curve up to 15° shall not be less than 0.070 mrad when the maximum lever is at 15° and the area shall not be less than 0.055 mrad to 30° when the maximum lever is at 30° or a larger angle. If the maximum lever is between 15° and 30°, the required area  $A\phi_{\max}$  shall be determined by linear interpolation in mrad to the angle at which the maximum lever occurs according to the following formula:

$$A\phi_{\max} = 0.055 + 0.001 (30^\circ \phi \max^1) \text{ mrad}$$

- b) The area under the GZ curve between the angles 30° and 40° or between 30° and  $\phi_f^2$  shall not be less than 0.030 mrad.
- c) At an angle of 30°, the lever shall be at least 0.20 m in size.
- d) The maximum lever shall not occur at an angle less than 15°.

<sup>1)</sup>  $\phi_{\max}$  is the angle at which the GZ curve reaches the maximum.

<sup>2)</sup> shall not be less than 0.030 <sup>2)</sup>  $\phi_f$  is the angle at which the first unprotected opening comes to water.

- e) The initial value of stability (G'M), taking into account the exposed surfaces of liquids, shall not be less than 0.15 m.
- f) Under the influence of maximum passenger moment, the ship shall not heel more than 10 degrees. The maximum passenger moment does not necessarily have to occur with the maximum number of passengers.

The distribution of passengers crowded on one side shall be assumed to be 4 persons/m<sup>2</sup>.

The weight of one passenger shall be assumed to be 0.075 t and the hand baggage per passenger shall be set at 0.005 t.

- g) When navigating in a turning circle and under the effect of the passenger moment calculated in point (f), the ship shall not heel more than 12°. The centrifugal moment in the turning circle shall be calculated according to the following formula:

$$M_{DR} = 0.02 (V_0^2 / L_{WL}) * D * (KG' - T/2)$$

where  $M_{DR}$  heeling centrifugal moment in the turning circle [tm]

$V_0$  Service speed [m/s]

$D$  Displacement [t]

$KG'$  Vertical centre of gravity above base taking into account the exposed surfaces of liquids [m]

$L_{WL}$  Length of the waterline [m]

$T$  Draught at half-length of the vessel [m]

## 2. Wind criterion

- a) Under a lateral wind pressure of 0.08 t/m<sup>2</sup>, the angle of inclination of the ship shall not be exceeded, where the residual freeboard to the bulkhead deck on the submersible side becomes less than 10 % of the existing freeboard in the right position. This angle shall not be more than 12°.
- b) The static angle of inclination due to the lateral wind pressure is determined by the intersection of the curve of the righting lever and the curve of the heeling lever. The heeling moment due to crosswind shall be calculated

using the following formula:

$$h_{KW} = 0.08 * A/D * (l_w + T/2) * \cos (\varphi)$$

where  $h_{KW}$  heeling lever due to the lateral wind pressure at an angle of inclination  $\varphi$  [m]

A Above-water lateral surface [m<sup>2</sup>]

D Displacement [t]

$l_w$  Distance of centre of gravity of surface A from base [m]

T Draught at half-length of the vessel [m]

$\varphi$  respective angle of inclination [°]

- c) For vessels over 12 m width, it shall be demonstrated that, under dynamic wind pressure, rectangular windows or other unprotected openings are not submerged.

3. The following loading conditions shall be calculated for stability:

- a) Ship in ballast voyage without passengers with full supplies (departure)
- b) Ship in ballast voyage without passengers with 10 % supplies (arrival)
- c) Ship with the maximum number of persons and full supplies (departure)
- d) Ship with the maximum number of passengers and 10 % supplies (arrival) The GZ curves shall be calculated with free trim and free sinkage. The weight of one passenger shall be assumed to be 0.075 t and the hand baggage per passenger shall be set at 0.005 t. For ferry vessels, 0.020 tonnes of baggage per passenger is also expected.
- e) Ship with the maximum number of persons and freight load (departure), if any.
- f) Ship with the maximum number of persons and freight load (arrival), if any.

**For 2 Watertight subdivision**

**For 3 Floodable length**

**For 4 Permissible length of compartments**

**For 5                      Permeability**

If Regulation 8.4.5 (reduced extent of damage) is applied, the next higher subdivision factor for the calculation of the bulkhead curve may be applied for the relevant area of the ship. This is based on the subdivision factor required by Regulation 6.

**For 7                      Special requirements concerning ship subdivision**

If Regulation 8.4.5 (reduced extent of damage) is applied, the next higher subdivision factor for the calculation of the bulkhead curve may be applied for the relevant area of the ship. This is based on the subdivision factor required by Regulation 6.

For 7.3                      It is not permitted to calculate the bulkhead curve using recesses.

**For 8                      Stability in damaged conditions**

For 8.2.3.3                      When applying Regulation 8.4.5 (reduced extent of damage), the wind pressure shall be determined using the following formula:

$$GZ \text{ (metres)} = (\text{Heeling moment/Displacement}) + 0.10$$

When applying Regulation 8.4.5, the righting lever shall not be less than 0.15 m.

In addition, the following rules shall apply:

8.4.5                      By way of derogation from paragraphs 4.2 and 4.3, the extent of the damage may be assumed for a part of the length of the vessel or over the whole length of the vessel, if a raised floor is arranged in those parts or over the whole length of the vessel with a minimum height of 0.60 m, separated from the bottom and sides, as follows:

1.                      On the sides of the ship
  - a)                      Transverse extent (measured inboard from the ship's side, at right angles to the centreline at the level of the deepest subdivision load line): a distance of 1.00 m;
  - b)                      Vertical extent: from the base line upwards without limit.
2.                      In the bottom of the ship
  - a)                      Transverse extent (measured inboard from the ship's side, at right angles to the centreline at the level of the deepest subdivision load line): a distance of one fifth of the breadth of the vessel, but not less than 3.00 m;

- b) Vertical extent: from the base line upwards to a level of 0.60 m

- 8.4.6 If the extent of damage is measured in accordance with Regulation 8.4.5, at least the two-compartment status shall apply to the area of the ship in which Regulation 8.4.5 is applied. The margin line defined in paragraph 1.8. of Part A of Chapter II-1 shall be at least 100 mm below the upper surface of bulkhead deck at side.
- 8.4.7 Public spaces below the bulkhead deck meeting the requirements of Regulation 8.4.5 shall have at least two means of escape, at least one of which shall not pass through watertight doors. Escape routes shall be located at opposite ends of the space. The maximum distance to any of the escape routes shall not exceed 8 m. A watertight door forming one of the escape routes shall be at least 0.90 m wide. The width of the stairs shall comply with the requirements of Regulation II-2/B/6.1.5b, with the required overall width equally divided between the stairs present in the space.
- 8.4.8 If the extent of the damage is determined in accordance with Regulation 8.4.5, the number of passengers carried in salons under the bulkhead deck in the area where the reduced extent of damage is applied shall not exceed 500 persons.

**For 10 Double bottoms**

In addition, the following rules shall apply:

- 10.9 Passenger ships under 50 m in length and with a subdivision factor of 1.0 shall be exempted from the installation of a double bottom if the calculation of the end position shows at least a margin line of 114 mm (1.5 x 76 mm) for each damage event. Passenger ships with a subdivision factor not exceeding 0.5 shall be exempted from the installation of a double bottom.
- 10.10 Passenger ships of 50 m or more in length shall be fitted with a double bottom if the compartment factor is greater than 0.5. The double bottom shall extend at least from the machinery space front bulkhead to the forepeak bulkhead or as close as possible thereto in the case of vessels with the engine space located astern.
- 10.11 If Regulation 8.4.5 is fully or partially applied, a double bottom shall be provided for these areas.

**For 13 Openings in watertight bulkheads**

For 13.5.4 In addition, the following rule applies:

When applying Regulation 8.4.5: The positioning of the watertight doors and their controls shall be such that the operation of the watertight doors outside the damaged area of the ship is not impaired if the ship suffers damage inboard within the damage zone of 1.00 m, this distance being measured at right

angles to the centreline at the level of the deepest subdivision load line.

For 13.7.1.2.2 In addition, the following rule applies:

When applying Regulation 8.4.5: The door shall be located above the double bottom and outside the damage zone of 1.00 m.

For 13.9.3 In addition, the following rules shall apply:

If two adjacent watertight compartments are accessible through a watertight door in one watertight bulkhead and this watertight door serves as a secondary escape route from a salon or other spaces intended for passengers, it shall be considered strictly necessary for this to remain open. Such a watertight door shall be clearly indicated in the ship's stability documentation and shall be closable at any time. The compartment lengths for the compartments adjacent to this watertight door shall not exceed the maximum floodable lengths defined in Regulations 2 to 5 using a compartment factor smaller than required by Regulation 6.

**For 17-1 Watertight integrity from the ro-ro deck (bulkhead deck) to spaces below**

For 17-1.1.1 In addition, the following rule applies:

Paragraph 1.1 shall not apply to ro-ro passenger ships if the height of the ro-ro deck above the waterline with the companionways into the ship is not less than 3.00 m.

**For Part C Machinery**

**For 3 Bilge pumping arrangements**

For 3.2.9 In addition, the following rule applies:

When applying Regulation B/8.4.5: Where the pipe is at any part situated nearer the side of the ship than 1.00 m (measured at right angles to the centreline at the level of the deepest subdivision load line), or is in a duct keel, a non-return valve shall be fitted to the pipe in the compartment containing the open end.

For 3.2.10 In addition, the following rule applies:

When applying Regulation B/8.4.5: In addition, damage to a pump or its pipe connecting to the bilge main outboard of a line drawn at a distance smaller than 1.00 m shall not put the bilge system out of action.

**Part D Electrical installations**

**For 3 Emergency source of electrical power**

For 3.1 In addition, the following rule applies:

The independent emergency source of electrical power may be accommodated with an emergency electrical board below the bulkhead deck if a second redundant emergency electrical board is provided. The two emergency electrical boards shall be accommodated in separate compartments for fire safety and damage stability if a second emergency electrical board is available and the emergency source of electrical power can be operated in all circumstances (including in the event of leaks).

**For Chapter II-2 Fire protection, fire detection and fire extinction**

**For Part B Fire safety measures**

**For 6 Means of escape**

Public spaces below the bulkhead deck meeting the requirements of Regulation II-1/B/8.4.5 shall have at least two means of escape, at least one of which shall not pass through watertight doors. Escape routes shall be located at opposite ends of the space. The maximum distance to any of the escape routes shall not exceed 8 m. A watertight door forming one of the escape routes shall be at least 0.90 m wide. The width of the stairs shall comply with the requirements of Regulation 6.1.5.a, with the required overall width equally divided between the stairs present in the space.

For 6.1.1 In addition, the following rule applies:

If, for the assessment of stairways, ladders, corridors and doors, assumptions are made for ineffectiveness due to damage in the event of collision, the extent of damage shall be assumed to be 1.00 m (measured inboard from the ship's side, at right angles to the centreline at the level of the deepest subdivision load line), provided that the point in question is not less than 0.60 m above the base.

For 6.1.5 This Regulation shall apply without 6.1.5a to vessels of 24 metres or more in length, with the following addition:

Depending on the location of embarkation stations, the number of decks, the location of fire zones, the location and number of escape routes and the evacuation plan based on MSC Circulars 1166 (Guidelines for a simplified evacuation analysis for high-speed passenger ships) and 1238 (Guidelines for evacuation analysis for new and existing passenger ships) (VkBl. 2011 p. 711) a stairway enclosure required by paragraphs 6.1.1. and 6.1.2. may be omitted.

6.1.5.5 In addition, the following rule applies:

The landings at each deck level shall not be less than 2 m<sup>2</sup> in area and shall increase by 1 m<sup>2</sup> for every 40 persons provided for in excess of 80 persons but need not exceed 10 m<sup>2</sup>, except for those landings servicing public spaces having direct access onto the stairway enclosure.

**For 6-1                    Escape routes on ro-ro passenger ships**

For 6-1.3                The evacuation test is to be carried out based on the interim guidelines for evacuation analysis of high-speed passenger ships (MSC Circ. 1001), as amended, with a maximum evacuation time of 30 minutes.

**For Section 2**

**Safety requirements for new passenger ships the keel of which was laid on or which were at a similar stage of construction on or after 19 September 2021 engaged on domestic voyages**

**For Chapter II-1 Construction**

**For Part B                Intact stability, subdivision and damage stability**

The requirements of the relevant provisions of Chapter II-1, Parts B to B-4 of the SOLAS Convention shall apply unless otherwise specified below:

The subdivision factor R for passenger ships to be calculated in Regulation 6.2.3 of Part B-1 of the SOLAS Convention shall be set as 0.95 R.'

13. In § 3(3) subparagraph 4, in Annex 1 Subsection B.II point 3.4 second sentence and point 7, and Subsection C.I.4 point 3 third sentence, in Annex 2 Section A point 3 and point 5 second sentence, and Section B point 1.3, point 3.3 first sentence and point 3.7 first sentence, in Annex 3 Section A point 4.2 first sentence letter (b) and point 6, Section B point 1.1.3 second sentence point 1.1.4, point 1.2.5 second sentence and point 4 second sentence, and Section C point 2.2.1 first and second sentences, each instance of the words 'Transport and Digital Infrastructure' shall be replaced by the words 'Digital and Transport'.

## **Article 2**

### **Consequential amendments**

(2) Annex III § 6.02 of the Inland Waterway Vessel Inspection Code of 21 September 2018 (BGBl. I p. 1398, 1459), as amended by Article 1 of the Ordinance of 5 January 2022 (BGBl. I p. 2), is worded as follows:

1. Point 4 is worded as follows:

1. '                Magnetic compasses and transmitting magnetic heading devices shall be:
- a)                tested by the competent authority prior to installation; this is not required for compasses or transmitting heading devices approved in accordance with Section D point 10 of the Annex to the Ship Safety Act;
  - b)                installed on board in accordance with the technical provisions of Annex 1, Part 2; and
  - c)                adjusted before being putting into service and at the latest on each renewal of the voyage fitness certificate; proof of adjustment shall be carried in the form of a table of deviation.



The maximum deviation after adjustment shall not exceed 6 degrees.'

2. Point 5 is repealed.

(3) The Maritime Recreational Craft Ordinance of 29 August 2002 (BGBl. I p. 3457), as last amended by Article 3 of the Ordinance of 3 March 2020 (BGBl. I p. 412), is amended as follows:

1. The Table of Contents is amended as follows:

- a) The entry for Section 4 is worded as follows:

'Section 4 Commercial subsequent use in Germany'.

- b) The entry for § 19 is worded as follows:

'§ 19 Commercial subsequent use abroad'.

- c) The entry for Annex 4 is worded as follows:

'Annex 4 Crew requirements for commercial subsequent use (§ 15 2)'.

2. § 1 is amended as follows:

- a) Paragraphs (1) and (2) are worded as follows:

(1) ' This Ordinance shall apply to recreational craft and personal watercraft which are subject to Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC (OJ L 354, 28.12.2013, p. 90, L 297, 13.11.2015, p. 9) and without prejudice to § 14, on German maritime waterways and German coastal maritime territory with a seaward border.

(2) This Ordinance shall also apply to the watercraft referred to in paragraph (1) which fly the German flag and have their permanent berth abroad.'

- b) In paragraph (4), the words 'recreational craft' are replaced by the word 'watercraft'.

3. § 2 Paragraph 1 shall be amended as follows:

- a) Subparagraph 1 is worded as follows:

1. 'Recreational craft

Watercraft as defined in Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC (OJ L 354, 28.12.2013, p. 90, L 297, 13.11.2015, p. 9) intended for sports and leisure purposes,'.

- b) After subparagraph 1, the following subparagraph 2 is inserted:

1. 'Sports and leisure purposes

the non-commercial use of a watercraft for water sports activities, for locomotion, for pleasure or for enjoyment on board; Sports and leisure purposes do not exist in the case of cultural, political, religious, scientific, artistic, charitable and humanitarian activities or similar non-economic purposes,'.

- c) The current subparagraphs 2 to 5 become subparagraphs 3 to 6.
- d) The current subparagraph 6 is replaced by the following subparagraphs 7 and 8:
  - 1. 'commercial use'

the carriage of persons or cargo for remuneration, offered publicly to an undefined group of persons with a certain regularity or the provision of services for remuneration, including for sports training, without constituting rental; there is no need for a profit-making purpose,
  - 2. sports training

training for the driving of recreational craft by a sports school on the basis of a written training programme, in particular for the acquisition of the recreational craft driving licence under the Recreational Craft Driving Licence Ordinance or a certificate of competence under the Maritime Recreational Craft Driving Licence Ordinance,'.
- e) The current subparagraphs 7 and 8 become subparagraphs 9 and 10.
- 4. In the heading of Section 4, the words 'Use of recreational craft' are replaced by the words 'Subsequent use'.
- 5. § 14 are § 15 are worded as follows:

#### § 1'

##### Safety certificate

(1) A watercraft built or dedicated for sports and leisure purposes is subject to the provisions of the Ship Safety Ordinance of 18 September 1998 (BGBl. I p. 3013, 3023), as amended, as soon as it is used commercially.

(2) By way of derogation from paragraph (1), Regulation 10.3 in Chapter 3 of Part 6 of Annex 1a to the SchSV shall not apply to watercraft which include the provision of a master or a crew for remuneration for sports and leisure purposes or are used in sports training.

#### § 1

##### Licence

(1) A person driving a watercraft within the meaning of § 14(2) shall be required to obtain a driving licence and a valid radio certificate sufficient for the radio terminal. If the watercraft is used in coastal waters and inland waterways which are also maritime waterways, the licence shall be demonstrated by presentation of the recreational coastal vessel driving licence within the meaning of § 1(1) first sentence subparagraph 1 of the Maritime Recreational Craft Driving Licence Ordinance. If the vessel is used in the near-coastal maritime waters, the licence shall be demonstrated by means of the maritime recreational craft driving licence within the meaning of § 1(1) first sentence subparagraph 2 of the Maritime Recreational Craft Driving Licence Ordinance; if the watercraft is used on a worldwide voyage, by means of the recreational high-sea driving licence within the meaning of § 1(1) first sentence point 3, of the Maritime Recreational Craft Driving Licence Ordinance. Proof of the valid radio certificate

sufficient for the radio terminal shall be determined in accordance with § 1(7) of the Maritime Recreational Craft Driving Licence Ordinance.

(2) In individual cases, by way of derogation from the second sentence of paragraph (1), the Directorate-General for Waterways and Shipping may, at the request of the master, recognise a recreational craft licence for maritime waterways within the meaning of Maritime Recreational Craft Driving Licence Ordinance of 3 May 2017 (BGBl. I p. 1016), as amended, as sufficient proof of the right to drive when the recreational craft is used up to 300 metres from the shore if the local conditions of the waters, the vessel to be operated and the safety and ease of navigation so permit. An acknowledgement to that effect shall be issued. The acknowledgment shall be carried when the watercraft is being operated and, upon request, provided for inspection to the persons authorised to carry out controls.

(3) The master shall ensure that watercraft used commercially and in accordance with § 14(2) have, in accordance with their type of propulsion, at least the crew resulting from Annex 4 with holders of driving licences in accordance with paragraph (1).'

6. In § 16(1) subparagraph 4 letters (e), (f) und (h), each instance of the words 'recreational craft' is replaced by the word 'watercraft'.

7. § 19 is amended as follows:

a) In the heading, the word 'Use' is replaced by the words 'Subsequent use'.

b) Paragraph (1) is worded as follows:

(1) ' § 14 shall also apply to a German-flagged watercraft constructed or dedicated for sports and leisure purposes in the case of professional use abroad.'

c) In paragraph (2), the words 'recreational craft' are replaced by the words 'watercraft in accordance with § 14(2)'.

8. In Annex 4, the following replacements are made:

a) Each instance of the words 'to recreational craft' is replaced by the words 'to watercraft',

b) Each instance of the words 'of the recreational craft' is replaced by the words 'of the watercraft',

c) Each instance of the words 'recreational craft' is replaced by the word 'watercraft'.

(4) Section 4 of the Annex to the [Federal Waterways and Shipping Administration \(BMDV\) Special Fees Ordinance of 28 October 2021 \(BGBl. I p. 4744\)](#), as last amended by [Article 5 of the Ordinance of 22 November 2023 \(BGBl. 2023 II No 321\)](#), is amended as follows:

1. Subparagraph 3 of the preliminary remarks is worded as follows:

1. ' Exemption from fees and charges

a) Insofar as the costs of medical examinations for the purpose of obtaining a fitness for maritime service certificate or the costs of the examinations for young crew members are borne by BG Verkehr or the Federal Government, the person to be examined is exempt from payment of fees and charges.

b) No fees under items 0303 and 0304 shall be charged for the issue of a safety certificate for ships within the meaning of § 6(1a) first sentence subparagraph 2 of the Ship Safety Ordinance.'

2. Subparagraph I Section 'D. Construction and equipment safety certificates and safety certificates for cargo ships and special craft under the Ship Safety Ordinance' is worded as follows:

'D. Construction and equipment safety certificates and safety certificates for cargo ships and special craft under the Ship Safety Ordinance'			
0301	Issue of a safety certificate before the ship is put into service, including confirmation for the annual and/or periodic surveys to be carried out for vessels over 8 m in length.	§ 9(3) SchSV	1 356
0302	Issue of a safety certificate for existing ships, including confirmation for the annual and/or periodic surveys to be carried out for vessels over 8 m in length	§ 9(3) SchSV	1 077
0303	Issue of a safety certificate before the ship is put into service, including confirmation of the interim survey for small craft with a length of 3.60 m to 8 m	§ 9(3) SchSV	749
0304	Issue of a safety certificate for existing ships, including confirmation of the interim survey for small craft with a length of 3.60 m to 8 m	§ 9(3) SchSV	530'.

3. Subparagraph I Section 'J Other individually attributable public services under the Annex to the SOLAS Convention 1974/88, the Ship Safety Ordinance' is amended as follows:

- a) Item 0803 is repealed.
- b) The current items 0804 to 0813 become items 0803 to 0812.

4. Subparagraph II Section 'D. International sewage pollution prevention or anti-fouling system certificates', is worded as follows:

Item	Subject	Legal basis	Fee
'D. International sewage pollution prevention or anti-fouling system certificates'			
2301	Issue of international sewage pollution prevention certificate in accordance with MARPOL Annex IV, Regulations 5 and 6 (ISPP Certificate) or international anti-fouling system certificate in accordance with Annex 4, Regulation 2 of the AFS Con-	§ 9 § 9(1) and (3) subparagraph 1, § 3(3) subparagraph 2, Annex 2 Section A. 1. II. point 16a SchSV in conjunction with MARPOL Annex IV, Regulations 5 and 6, or Annex 2, Section A. 1. VII. point 27 (a) (aa) SchSV in conjunction with Article 6 of	299

	vention or in accordance with Article 6 of Regulation (EC) No 782/2003 (IAFS certificate) before the ship enters into service.	Regulation (EC) No 782/2003 or Annex 2, Section A. 1. VII. point 27 (a) (bb) SchSV in conjunction with Annex 4, Regulation 2 of the AFS Convention	
2302	Issue of international sewage pollution prevention certificate in accordance with MARPOL Annex IV, Regulations 5 and 6 (ISPP Certificate) or international anti-fouling system certificate in accordance with Annex 4, Regulation 2 of the IAFS Convention or in accordance with Article 6 of Regulation (EC) No 782/2003 (IAFS certificate) for existing ships	§ 9(1) and (3) subparagraph 1, Annex 2, Section A. 1. II. point 16a SchSV in conjunction with MARPOL Annex IV, Regulations 5 and 6, or Annex 2, Section A. 1. VII. point 27 (a) (aa) SchSV in conjunction with Article 6 of Regulation (EC) No 782/2003 or Annex 2, Section A. 1. VII. point 27 (a) (bb) SchSV in conjunction with Annex 4, Regulation 2 of the AFS Convention	164'.

## Article 3

### Entry into force

This Regulation shall enter into force on the day following its promulgation.

## **Explanatory notes**

### **A. General part**

#### **I. Objective of and need for the provisions**

In accordance with § 1 SchSV, the draft serves to ensure safety at sea, including the directly related occupational safety and health of workers on sea-going vessels, environmental protection at sea and the effective application of the SchSG. This draft is now continuing the approach of deregulation embarked on by the Shipping Law Adjustment Act (SchAnpG) (BGBl. 1998 I 3013, 3023) with the conceptual reform of German ship safety law. In doing so, it continues to move away from national special rules involving sometimes stricter and more detailed requirements, and instead rely on the international standard. This is the only way to ensure that national ship safety requirements are in line with the state of the art, take account of new international and European requirements and, making use of the flexibilities still open to national law-making, satisfy Germany's own current regulatory needs, while respecting proportionality.

Equivalence checks for foreign-flagged vessels operating in coastal shipping or used commercially on maritime waterways or German coastal maritime territories with a seaward boundary are being abolished in light of the freedom to provide services in the European Union. At the same time, this makes it necessary to revise the national requirements for small craft, since the disadvantages associated with this facilitation of market access for German transport operators in coastal maritime territories are to be reduced, as they too will no longer be bound by national special rules, which are outdated and, in some cases, difficult to implement in shipbuilding practice.

The main objective of the amendments brought about by Article 1(10)(d) to Chapters 1 and 3 of Part 6 of Annex 1a SchSV is the reduction of the risk potential when small craft are used for commercial purposes, in particular those with a length of less than 8 metres and 'water taxis'. The higher and specific risks associated with special uses are to be addressed effectively and the regulatory gaps in ship safety law are to be closed for vessels under 8 metres in length. In this way, the amendments aim to strengthen and extend the maritime safety partnership between authorities and operators envisaged by the Ship Safety Act. In response to the very serious marine casualty of a surveying boat and an incident involving a water taxi, the Federal Bureau for Maritime Casualty Investigation (BSU) has repeatedly pointed out the need to establish requirements for the construction, equipment (including for fire safety and life-saving appliances) and the technical operation of small craft under 8 metres in length in the SchSV (Inspection Report 258/18 and Summary Investigation Report 218/21). The scope of the SchSV and the Maritime Recreational Craft Ordinance are therefore to be worded in such a way as to make them more distinct from one another. Certificate-free sports and leisure use is being given a legal definition for this purpose. This clarifies that, alongside commercial use, use for non-economic purposes is not covered by the term 'sports and leisure purposes'. The aim is to provide legal certainty on this issue, as the current legal text of the SchSV and legal practice differ, since the provisions of the SchSV are not applied to small craft of non-governmental organisations following an administrative court decision. However, these are now expressly exempted from the mandatory requirements for small craft. The privilege covers all small craft used for non-economic purposes. This includes small craft of maritime rescue organisations: both those to which the State task of saving lives in German coastal waters is delegated and other sea rescue operations privately organised by charitable associations, such as in the Mediterranean Sea. The latter are to be exempted from the requirement of periodic technical inspection also in view of initiatives at EU level supported by the BMDV that could lead to EU-wide harmonisation of requirements in the medium

and long term. These should not be pre-empted. Furthermore, small craft used for other non-economic purposes (e.g. environmental protection, marine scientific observation) are also to be exempted from the requirements. Express reference is also to be made to the possibility for operators of small craft used for non-economic purposes to submit themselves voluntarily to the requirements by means of an application for certification and to arrange for surveys. The BMDV also publishes safety recommendations for NGO small craft and strongly advises them to ensure compliance in order to provide adequate protection for crew members, additional volunteer helpers and, where appropriate, rescued persons, as they are exposed to risks comparable to those of professional seafarers on board these vessels. These non-binding safety recommendations do not go beyond the ship safety requirements of Annex 1a SchSV. No operational requirements are laid down. The recommendations are intended to help operators meet their own responsibilities for crew, helpers and rescued persons. How the recommendations are implemented is left to operators and ship masters. Stakeholders are consulted before the safety recommendations are published and any adjustments are made. In addition, upon application, confirmation is to be issued that the small craft exempted from the requirements is not subject to certification when used for non-economic purposes.

Overall, the revision of the safety requirements for small craft is to focus on their proportionality. An international, modern and research-based minimum standard is therefore being pursued, compliance with which can be demonstrated in a simplified manner by conformity with the industrial standards for recreational craft (CE marking). In light of the extension of the certification requirement to small craft under 8 metres in length, but also because of the specific characteristics of some public authority craft, an exemption is intended to allow authorities to monitor, under their own responsibility, ship safety on ships operating in their service or on their behalf by means of a survey regime that is internal to the authority.

In view of the specific characteristics of German maritime conditions and the related needs of the German shipbuilding industry, the deterministic calculation method of damage stability for vessels engaged in tidal flat shipping on the Wadden Sea and for passenger ships under 24 metres in length is to continue to be made possible, despite recent changes in EU law. Taking account of specific challenges also makes it necessary to create separate safety requirements for passenger shipping in the port area of Helgoland.

## **II. Main content of the draft**

In addition to purely editorial adjustments, updating of outdated references and clarifications, which are made without any intention to change the existing legal situation, the draft substantively recasts the following main aspects and provisions:

1. By means of an exemption (Article 1(1)) authorities are to be given the option of applying for ship safety certificates from BG Verkehr, as has hitherto been the case for ships operating in their service or on their behalf, or, in future, to monitor ship safety under their own responsibility using a survey regime internal to the authority.
2. Compass adjustment is no longer to be limited to being carried out by experts recognised by the BSH (Article 1(3)).
3. The equivalence checks for foreign-flagged vessels engaged in coastal shipping (Article 1(4)(b)) are being abolished.
4. The new notification obligation (Article 1(6)(a)(aa)) and due diligence obligation (Article 1(6)(a)(bb)) with regard to ship maintenance, improves implementation of Regulation 11 of SOLAS Chapter I.



5. The AIS obligation is being laid down in greater detail (Article 1(6)(b)(aa)) and penalties for its infringement are being extended to include foreign-flagged vessels (Article 1(7)(b)).
6. Despite Delegated Regulation (EU) 2020/411, damage stability can still be calculated deterministically for tidal flat shipping on the Wadden Sea and passenger ships under 24 metres (Article 1(12) and Article 1(10)(a)).
7. A separate national safety standard for passenger ships in the Helgoland port area facilitates operations under ship safety law for this extremely restricted navigation area, while taking into account local conditions and shipbuilding challenges (Article 1(10)(b)).
8. The amendments focus on the ship-related safety requirements for cargo ships in Parts 6 and 7 of Annex 1a SchSV – and in particular the rules for small craft. The draft aims to modernise national safety rules with a comprehensive revision of the existing regulations. This is to be done on the basis of international safety standards wherever possible. These standards are based on a standardised scientific approach by standardisation organisations (e.g. International Organisation for Standardisation (ISO), International Electronic Commission (IEC)) or classification societies, analysis of worldwide accident investigation reports and accident statistics, as well as several decades of practical experience among ship safety experts from around the world. If necessary, they will be supplemented by additional safety requirements by the German legislator for specific uses, such as for the use of small craft for commercial passenger transport (water taxis). In addition to the advantages mentioned above, basing the national ship safety requirements on international safety standards facilitates access to the European internal market.
9. For traditional ships, the transitional period to comply with the new requirements introduced in 2018 is being extended (Article 1(10)(c)).

### **III. Alternatives**

There are no alternative initiatives from the Länder or from Bundestag members.

The objective of bringing the control of foreign-flagged ships in coastal shipping in line with European law could also be achieved by limiting equivalence checks (§ 9(6), Section D.III Annex 1 SchSV) to ships which are not subject to the EU freedom to provide services, instead of omitting prior official authorisation for all foreign flagged ships. For these vessels, however, which currently number only a few, a separate system using up resources would then have to be kept in place and administrative hurdles, e.g. for the development of offshore wind energy, would remain, as many installers and supply vessels are affected by the existing equivalence requirement. Instead, an adequate level of safety is to be guaranteed uniformly for all foreign-flagged ships under the port State control system to ensure that these ships do not manifestly pose a danger to safety, health or the environment (Article 3(2) of Directive 2009/16/EC in conjunction with Annex 1 to the Paris Memorandum of Understanding on Port State Control). This approach is also in line with the practice of various EU Member States.

### **IV. Regulatory power**

Pursuant to § 7(1) of the Maritime Shipping Responsibilities Act (SeeAufgG), the Federal Ministry for Digital and Transport (BMDV) is authorised to delegate, in full or in part, by means of ordinance and without the assent of the Bundesrat, the assessment of the navigational and operational safety of ships flying the German flag which are not subject to international safety regulations within the meaning of the Ship Safety Act, to legal entities under private law pursuing corresponding purposes according to their Article of Association. The power to issue regulations on marine equipment derives from § 7a(3). The power to issue regulations on the requirements for manning and on the issue and validity

of ship crew certificates and on monitoring compliance with the manning rules derives from § 9(1) first sentence subparagraph 3 in conjunction with second sentence SeeAufgG. § 9(1) first sentence subparagraph 3a, in conjunction with the second sentence SeeAufgG, confers the power to issue regulations on the requirements for the competence and aptitude of crew members, on the conditions for the issue of certificates of competence and for their recognition. The power to issue regulations on substantive ship safety law and accompanying procedural law derives from § 9(1) first sentence subparagraph 4, in conjunction with the second and third sentences SeeAufgG. Ordinances can be issued containing regulations on notifications to be submitted by masters and other persons responsible for the operation of the vessels by the Federal Ministry for Digital and Transport in accordance with § 9(1) first sentence subparagraph 6. Pursuant to § 9(1) first sentence subparagraph 7, in conjunction with the second sentence SeeAufgG, the BMDV is authorised to bring into force and implement other regulations domestically on the basis of amendments to and within the framework of the objectives of the 1974 International Convention for the Safety of Life at Sea (BGBl. 1979 II, p. 141) and the 1988 Protocol to that Convention, as amended. § 9(3) SeeAufgG provides the basis for the power to issue provisions on the keeping of logbooks. Pursuant to § 9c SeeAufgG, ordinances in accordance with § 7a and § 9 of the SeeAufgG may also be issued for the purpose of implementing or transposing legal acts of the European Union.

Pursuant to § 3(1) subparagraph 2 of the Inland Shipping Responsibilities Act (Bin-SchAufgG), the BMDV has the power to issue ordinances laying down requirements for the construction, installation, equipment, operation and freeboard of watercraft, or requirements for the systems, components, instruments, appliances and other equipment to be installed or used on watercraft.

Pursuant to § 36(3) of the Act on Administrative Offences (OWiG), the BMDV, as the competent Federal Ministry, may transfer to another authority or other body its competence to prosecute and punish administrative offences by means of ordinance which does not require the assent of the Bundesrat.

The BMDV Special Fees Ordinance is based on § 22(4) of the Act on Fees and Expenses for Federal Services. This provision entitles the Federal Ministry for Digital and Transport to issue and amend ordinances in its area of competence.

## **V. Compatibility with European Union law and international treaties**

The draft is compatible with European Union law and international law:

The exemptions for ships in public service or operating on behalf of a public authority (Article 1(1) and Article 1(6)(c)) are in line with international maritime safety law: Firstly, ships in state ownership and in public service that do not serve commercial purposes are not subject to international safety standards in accordance with the principles of the international law of the sea, as reflected in Article 96 of the United Nations Convention on the Law of the Sea (UNCLOS); see, for example, Regulation 1.1 of Chapter V of the Annex to the 1974 International Convention for the Safety of Life at Sea (SOLAS). Secondly, the exemption relates to compliance with the requirements of Annex 1a SchSV, which apply to ships which are not subject to international ship-related safety standards in accordance with § 5 SchSV.

The amendment to compass adjustment (Article 1(3)) is in conformity with international law because Regulation 19 point 2.1.1 of Chapter V SOLAS does not require state recognition of compass adjusters (see the explanatory notes for the Specific Part).

Equivalence checks for foreign-flagged vessels engaged in coastal shipping (Article 1(4)(b)) are being abolished in light of the freedom to provide services under EU law (Regulation (EEC) No 3577/92 and Regulation (EEC) No 4055/86), which fundamentally pre-

cludes a system of prior official authorisation. There is no equivalence check obligation for ships flying the flag of a third country, especially since international maritime safety law concerns only ships engaged in international voyages.

The new notification obligation (Article 1(6)(a)(aa)) and due diligence obligation (Article 1(6)(a)(bb)) as regards ship maintenance, serves to implement Regulation 11 of Chapter I of the SOLAS Convention and, in the case of passenger ships, reflects Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships.

The more detailed specifications concerning the AIS obligation (Article 1(6)(b)(aa)) ensure the implementation of the SOLAS Regulations referred to in the draft provision (see explanatory notes for the Specific Part). Extension of the penalties for breach of obligations also to include masters of foreign-flagged vessels (Article 1(7)(b)), is also compatible with international law: Article 21(1)(a) of the United Nations Convention on the Law of the Sea (UNCLOS) allows for such conduct obligations. This is because the operational obligation and penalisation of the breach of such obligation serve to implement Regulation 19.2.4.7 of the SOLAS Convention. Articles 21(2) and 27 of the UNCLOS do not preclude this either. Under § 14(1) SchSG, the general rules of international law and international treaty law must be observed when inspecting foreign-flagged ships.

The amendments to Annex 1a SchSV (Article 1(10)(d)) are compatible with EU and international law because the ships in question do not fall within the scope of international safety standards, mainly because of their small size or because they are engaged in domestic voyages. The same applies to the other amendments to the ship-related requirements: Article 3(1)(a) of Directive 2009/45/EC exempts existing passenger ships under 24 metres in length from that Directive, which is relevant for the amendments in Article 1(10)(a) (see explanatory notes for the Specific Part). The establishment of national rules for the Helgoland port ferry (Article 1(10)(b)) is not in conflict with European harmonisation by Directive 2009/45/EC, as only passenger ships operating in the port area do not fall within its scope; see Article 3(2)(a)(viii) and (b)(iii) in conjunction with Article 2(r) of the Directive.

The amendment to the rules on tidal flat shipping on the Wadden Sea (Article 1(12)) makes use of the possibility offered to Member States in Article 9(3) of Directive 2009/45/EC for special national arrangements. The conditions laid down in this derogation are complied with (see the explanatory notes for the Specific Part).

## **VI. Consequences of the Legislation**

### **1. Legal and administrative simplification**

The compass adjustment process is being simplified by not requiring the State recognition of adjusters. The deletion of the reference in § 12(2) SchSV to the Paris Memorandum of Understanding of 20 July 2000 on Port State Control allows for procedural simplification in the event of amendments to the Paris MOU, as this no longer requires the publication of an official German translation. Equivalence checks for foreign-flagged vessels in coastal shipping are being abolished. Details are explained in the Special Part.

### **2. Sustainability aspects**

The draft legislation is expected to have an impact on several Sustainable Development Goals (SDGs) of the United Nations 2030 Agenda: on safe and environmentally friendly 'mobility' (SDG 11.2), 'protecting the seas' (SDG 14.1), 'good governance' (SDG 16.3). The draft also complies with the principles of sustainable development. This includes applying sustainable development as a guiding principle consistently in all areas and in all decisions, in order to secure the planet's natural resource base and to enable all people,

now and in the future, to live in dignity (Principle 1). The principle of conservation of the natural resource base is also affected (Principle 3): In order to maintain the natural resource base and respect planetary constraints, material cycles must be closed as soon as possible or brought into line with ecosystem processes and functions.

The subject-matter of the draft is maritime transport as a global mode of transport. By regulating the safe operation of ships, the German flag State assumes its responsibility for the safety, working and living conditions on seagoing vessels flying the German flag and for the preservation of the marine environment. The draft lays down rules for a ship-related safety standard that reflects the state of the art. The national requirements for the construction, equipment and operation of seagoing vessels is to be brought into line with international agreements on ship safety, as well as with technical standards developed by international standardisation organisations. The greater focus on international standards, including in those areas which remain under national power, is intended to strengthen German maritime shipping: It is thus subject to modern, globally standard and proportionate ship safety requirements. This applies to the cargo ships affected by the draft, and in particular to small craft, which must be a safe workplace in their commercial use. Therefore, for the first time, small craft under 8 metres in length are also subject to safety standards. In particular, the increasingly common commercial passenger transport by small craft (water taxis) in Germany's coastal zone achieves a high level of safety through specific requirements for the construction, equipment and operation of such vessels.

Maritime environmental protection goes hand in hand with maritime safety: Only safe ships ensure clean seas. Particularly when small craft are frequently used in island navigation, safety requirements reduce the risks to nature and landscape in the sensitive biospheres of the three German Wadden Sea National Parks.

Where international and European law allows for derogations in order to take into account regional specificities of maritime conditions, the draft reflects the needs of German maritime transport, easing the construction rules for vessels engaged in tidal flat shipping on the Wadden Sea, for passenger ships under 24 metres in length and for passenger ships in the port area of Helgoland. This will also preserve Germany's attractiveness as a location for owners of one of the world's largest shipping fleets and a major location for shipbuilding and shipbuilding supply industries.

Finally, the draft improves the authorities' monitoring of compliance with ship-related safety requirements, thus ensuring safety at sea.

### **3. Budgetary expenditure exclusive of compliance costs**

As a result of the introduction of fees for the issue of a safety certificate for small craft with a length of 3.60 m to 8 m, a total annual increase in revenue of approximately EUR 393 000 is expected according to preliminary estimates. A major difficulty in calculating the additional revenue generated from fees is the currently unknown number of small craft affected. In order to estimate the revenue generated from fees for the issue of safety certificates by BG Verkehr, an average of 600 ships is taken as the basis for the calculation, as when calculating the compliance costs (see 4.). The various intervals of the surveys cannot be taken into account. For the rationale behind these calculation bases, see the comments under 4. Furthermore, no distinction can be drawn between the issue of a safety certificate prior to entry into service and its confirmation, on the one hand, and the issue of a safety certificate for existing ships, on the other, including confirmation of the interim survey. In the first case, fees of EUR 749 are charged, in the second EUR 530 (see Article 2(3)(2)). This results in an average fee of EUR 638. According to preliminary estimates, this results in revenue generated from fees of approximately EUR 383 thousand ((749+ 530):2x600) per year.

In addition, fees are charged for the control of radio equipment by the BSH, but only for small craft of 6 m and above in length and only in cases where the control is carried out by the BSH itself and not by a service provider recognised by the BSH. As a result of the expansion in the group of addressees of the legislation, the BSH estimates the annual number of its additional inspections to be 40. The fee for inspecting the installation or attachment of navigation and radio equipment, including the granting of exemptions in this context, shall be based on the time spent. The BSH expects a fee of approximately EUR 250 on the basis of average travel costs and handling time of one hour by one administrator at the senior *gehobener Dienst* payscale level. The preliminary estimate of the annual revenue generated from fees for the control of radio equipment is therefore approximately EUR 10 thousand (40x250 euro).

#### 4. Compliance costs

In accordance with the 'Guide to Calculating and Setting Out Compliance Costs for Regulatory Projects of the Federal Government', it has been examined what financial and time burdens or benefits are to be expected for those addressed by the legislation as a result of the planned amendment. To increase transparency around one-off compliance costs for businesses and to define these costs more specifically, they are assigned to a category.

The following estimate of compliance costs was carried out by the Federal Statistical Office. It is based primarily on expert discussions with the Federal Maritime and Hydrographic Agency (BSH) and BG Verkehr, information provided by the department and searches on the Internet.

With regard to the substantive robustness of the data, it should be noted that the information is very rough. It has not yet been possible to hold discussions with stakeholders in the industry to validate the data obtained. In order to estimate the time required, the time value table for businesses from the Guide to Calculating and Setting Out Compliance Costs for Regulatory Projects of the Federal Government was used. For the assessment of personnel costs for businesses, the average skill level is generally used as the basis for calculation.

##### 4.1 Compliance costs for businesses

*Table 1 Compliance costs to businesses, by requirement*

Item no	Paragraph	Requirement description	Annual cost		One-off cost	
			Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)	Time expenditure (in thousands of EUR)	Material costs (in thousands of EUR)
1	§ 8 Draft SchSV	Removal of the restriction on compass inspectors	-0.10	-	-	-
2	§ 9 Draft SchSV	Removal of equivalence checks	-79.93	-	-	-
3	Part 6 and 7 of Annex 1a Draft SchSV	Ship-related cargo ship safety standard: In particular small craft, including water taxis, offshore service vessels and on freeboard	204.96			
4	Chapter 2 Part	Ship-related safety standard; provision				-234.00

	6 Annex 1a Draft SchSV	on fire protection clothing				
5	§ 13 (1) Draft SchSV	Ship owner's obligation to notify BG Verkehr pursuant to § 13 (1) subpara- graph. 1 SchSV	-	-	-	-
6	§ 13 (2) sub- paragraph. 4a Draft SchSV	Transmission operations to be ensured	-	-	-	-
7	§ 8 (3) and An- nex 1 Section C.I.4.4 Draft SchV	Provision on compass adjustment	-	-	-	-
8	Part 1a Annex 1a Draft SchSV	Specific safety requirements for Hel- goland port ferry	-	-	-	-
<b>Total</b>			124.93			-234

#### 4.1.1 Removal of the restriction on compass inspectors; § 8 Draft SchSV

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
6	-14	71.30	-	0.10	-
Change in compliance costs (in thousands of EUR)				-0.10	

The legal amendment removes the obligation to have magnetic compasses adjusted only by a person (adjuster) recognised by the BSH or by a Member State of the IMO. No applications for recognition by adjusters will take place after the legislative amendment. On the other hand, the obligation for the operator or owner to adjust the compasses before being put into service and then at least every two years thereafter remains and has not been changed. Thus, only the compliance costs incurred in applying for recognition are to be taken into account as savings.

Under current law, an application form is completed and submitted electronically (by e-mail) together with supporting documents in a recognition procedure. In order to apply for the adjustment of magnetic standard and steering compasses, evidence of the required expertise must be provided in the form of simple copies. At the time of first application, the master's certificate, including proof of seagoing service as a ship officer, evidence of training on marine magnetism and documentation of adjustments performed must be attached to the application as proof of competence to carry out adjustment. On the other hand, in the event of a renewal, evidence of the last ten adjustments (adjustment reports and development tables) shall be provided. The time needed to submit an application is simulated using the time value table for business and amounts to 14 minutes per case. The following standard activities are considered to be of simple to medium complexity:

- Data acquisition 10 minutes
- Completion of forms, labelling, marking 3 minutes
- Data transmission and publication 1 minute.

The number of cases is expected to be an average of 6 per year, matching the number of cases expected for the authorities. Since the requirement of expertise is defined as the ability to act as master and thus a high level of qualification, the wage costs are estimated at EUR 71.30/h. This results in an annual saving of approximately EUR 0.10 thousand ( $-14 \text{ min.} \times 6 \times \text{EUR } 71.30/\text{h}/60 = \text{EUR } 99.82$ ).

#### 4.1.2 Removal of equivalence checks

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
234	488	42	-	79.93	
Change in compliance costs (in thousands of EUR)				-79.93	

The removal of equivalence checks for foreign-flagged vessels in coastal shipping will result in savings for businesses. BG Verkehr no longer carries out flag State surveys and issue equivalence certificates. In future, however, these ships will have to be inspected more by means of port State controls, which are carried out in accordance with a risk-based approach. The equivalence check application form can be found on the website of BG Verkehr and can be completed and submitted online. The application shall be accompanied by documents relating to the characteristics of the vessel. The procedure is completed with a survey by the inspector. The time value table for businesses has been used to determine the time required when applying for an inspection. The following standard activities are taken into account:

- Data acquisition 2 minutes
- Completion of forms, labelling, marking 5 minutes
- Data transmission and publication 1 minute.

An additional 8 hours is calculated for participation in the inspector's visit. A total of 488 minutes per case is estimated. Matching the number of cases expected for the authorities, an average number of 234 vessels per year that will benefit from the legislative change has been used. For the calculation of personnel costs, an average wage of EUR 42 for the industry H50 (Shipping) has been used. The saving thus amounts to just under EUR 80 thousand ( $488 \text{ min} \times 234 \times \text{EUR } 42/\text{h}/60 = \text{EUR } 79\,934.40$ ). The proportion of administrative costs saved as a result of the discontinuation of the application is EUR 1 310.40.

#### 4.1.3 Ship-related cargo ship safety standard; Part 6 and 7 Annex 1a Draft SchSV

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
600	488	42	-	204.96	
Change in compliance costs (in thousands of EUR)				204.96	

The certification and survey requirements for small craft are being extended. A certificate shall be issued after the ship has successfully been surveyed as proof of compliance with all requirements. The scope and interval of all surveys are strictly prescribed. The requirement covers cargo ships (vessels not included in the passenger ship category as they have more than 12 passengers) and small craft under 24 metres and, for the first time, between 3.60 and 8 metres. The latter must be surveyed and certified for the first time before the ship is first put into service (first survey), which shall be valid for a maximum of 3 to 5 years. Thereafter, either an annual survey or an intermediate survey shall be carried out between the 2nd and 3rd year to ensure that certified status is maintained.



The number of cases used for calculating the compliance costs is estimated at 600 cases per year, matching the number of cases expected for the authorities. The operator shall apply for certification and the application shall be accompanied by documentation relating to ship data. The application shall be submitted electronically by email. In addition, for the purposes of certification of renewal, a survey of the ship by the authority is to be granted, which, it is estimated, will be accompanied by one member of ship staff.

The time required is simulated using the time value table for businesses on the basis of standard activities of simple to medium complexity. The following standard activities shall apply:

- Data acquisition 2 minutes
- Completion of forms, labelling, marking 5 minutes
- Data transmission and publication 1 minute.

The time required for accompanying the inspector or participating in the survey is additionally measured at 8 hours. A total of 488 minutes per case is estimated. The calculation is based on an average wage rate for the industry H50 (Shipping). The additional cost to businesses is set out without taking into account different inspection intervals and amounts to approximately EUR 205 thousand (488 min. x 600 x EUR 42.00/h/60 = EUR 204 960). Approximately EUR 3 thousand is for administrative costs (8 min. x 600 x 42.00) EUR/h/60 = EUR 3 360.

#### 4.1.4 Ship-related safety standard; provision on fire-fighter's outfit; Chapter 2 Part 6 of Annex 1a Draft SchSV

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
90	-	-	2,600		234
Compliance costs (in thousands of EUR)				-234	

A basic principle of firefighting is that two persons with protective equipment, including compressed air breathing apparatus, approach the seat of the fire and a third person keeps secure contact with these and safeguards them via a line. This is not feasible for a 3-person crew, as the bridge must remain manned for navigating, radio communication and coordination. The amendments to the fire safety provisions take this into account by increasing the lower limit for ships that are subject to the requirements to 300 GT (gross tonnage). This means ships below 300 GT are no longer required to carry 2 firefighter's outfits. Containing the fire by firefighting can only be considered feasible in larger ships with more subdivisions.

The amendment concerns mainly port tugs with a gross tonnage between 250 and 300 and a maximum 3-person crew. According to the Federal Waterways and Shipping Administration, there were around 113 tugs in the inland fleet in 2020. At the port of Hamburg alone, 20 port tugs are in use. According to the department, the number of cases for maritime transport to which the legal requirement applies could be similar. However, the statistics do not make it possible to determine how many port tugs have a GT of less than 300. The Kiel port fleet lists 5 port tugs on its website, with 4 port tugs having a gross tonnage of less than 300. Based on an 80 % share, around 90 vessels are to be taken as the number of cases. According to Internet searches, the cost of a fire-fighter's outfit, including compressed air breathing apparatus, is approximately EUR 2 600. It is unclear to what extent savings are also be taken into account in annual maintenance and repair. No expert opinion could be obtained for this estimate. The savings have been calculated

once as material cost savings for the ships currently in the fleet. The savings amount to approximately EUR 234 thousand ( $90 \times 2\,600 = 234\,000$ ).

#### 4.1.5 Obligation of ship owner to notify BG Verkehr; § 13(1) Draft SchSV

The legislative amendment introduces a new obligation for action in § 13 (1) subparagraph. 1 SchSV. Accordingly, the ship owner is obliged to notify BG Verkehr before the repair and in the case of maritime accidents. The obligations relating to the proper repair and restoration of the impairment-free approved condition and the obligation to inform the competent authority thereof shall remain unchanged. In practice, notifications are generally already sent to BG Verkehr prior to repair and about maritime accidents by the owners and via third parties. The amendment to the Ordinance thus results in de facto legal certainty and does not change the compliance costs for ship owners.

#### 4.1.6 Transmission operations to be ensured; § 13(2) subparagraph. 4a Draft SchSV

The master of a German-flagged vessel shall ensure that the vessel is equipped with an automatic identification system (AIS) and that it is in proper operation at all times. The new text clarifies the requirements for transmission operations that are to be ensured by the master. New in this respect is the express reference made here to the International Maritime Organisation (IMO) guidelines on shipborne automatic identification systems (AIS). This specification concerns all ships, which are now provided with clear information on how to operate the AIS by reference to the IMO guidelines. AIS is the normal equipment standard today, particularly in the case of commercially used vessels, in order to be easily recognisable by navigation control centres and other vessels. Therefore, according to expert opinion, it can be assumed that the specification will not create any additional costs for operators. There is also no need to change maintenance.

#### 4.1.7 Provision on compass adjustment; Section C.I.4.4 of Annex 1 Draft SchSV

Magnetic standard compasses and magnet steering compasses fixedly installed on board must be adjusted before entry into service and at least every two years thereafter, and proof of adjustment must be kept on board in the form of a deviation table. The ship's master shall regularly check the deviation and carry the entries for the results of the previous 12 months' controls'. Experts envisage no change in the compliance costs here, as the provision already applies in practice.

#### 4.1.8 Specific safety requirements for the Helgoland port ferry; Part 1a of Annex 1a Draft SchSV

Part 1a of Annex 1a introduces specific safety requirements for the Helgoland port ferry. The now lower requirements result in more favourable conditions for the construction of such a ship. However, the legislative amendment concerns only one ferry in operation, so no substantial change in compliance costs can be expected.

#### 4.2 Compliance costs for the authorities

*Table 2: Change in compliance costs for the administration*

			Annual cost	
Item no	Paragraph	Requirement description	Staff costs (in thousands of	Material costs (in thousands of EUR)

			EUR)	
1	§ 6 (1a) Draft SchSV	Exemption for public authority vessels	-15.81	0
2	§ 8 Draft SchSV	Removal of the restriction on compass inspectors	-1.40	0
3	§ 9 Draft SchSV	Removal of equivalence checks	-52.31	0
4	§ 13 (1) sub-paragraph	Ship owner's obligation to notify BG Verkehr pursuant to § 13 (1) subparagraph. 1 SchSV	4.19	0
5	Part 6 and 7 Annex 1a Draft SchSV	Ship-related cargo ship safety standard: In particular small craft, including water taxis, offshore service vessels and on freeboard	1,506.60	0
<b>Total</b>			1,441.27	-

Estimated compliance costs for the authorities with regard to the individual requirements are outlined below.

#### 4.2.1 Exemption for public authority vessels; § 6(1a) Draft SchSV

Change in annual compliance costs of the Federal Government:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
20	-1020	46.50	-	-15.81	
Change in compliance costs (in thousands of EUR)				-15.81	

The provision gives public authorities the choice, for their vessels, which are used for the performance of public authority tasks of the Federal Government, the Land or a municipality or association of municipalities, and which are not used for commercial purposes, to have a certificate issued by BG Verkehr as has previously been the case or to make use of their own survey regime.

If an authority makes use of the new exemption from the certificate obligation, they shall no longer be required to apply for a certificate pursuant to § 9 (3) SchSV and present the ship for survey. For this to be possible, there must be an internal safety concept within the authority, which includes its own marine technical expertise to monitor the necessary (minimum) ship safety requirements with a comparable safety standard. According to the department, some authorities already have their own survey regime, which has constituted a double burden to date.

However, in order to determine a possible saving for a public authority ship using its own survey regime instead of certification by BG Verkehr under the Ship Safety Ordinance, the costs for such a survey regime must be compared. In this case, the cost of certification can only be outlined in a rough manner, as the handling time varies greatly depending on the application and there is no information on the costs of an own survey regime. Only hypothetical considerations can be made here, allowing savings to be approximated.

The cost of certification under existing legislation can be divided into design inspection or approval, survey and administration costs. The total cost of approval for a new construc-

tion application is, on average, roughly estimated at around 100 hours of work, which is mostly carried out by the staff at *gehobener Dienst* level<sup>3</sup>.

The design inspection varies very individually depending on the type of vessel and involves advice from different specialist units and is, on average, approximately 60 hours per ship. The determining factor is whether the vessel is one whose series type is already known or a completely new one. The survey is generally conducted by two persons at *gehobener Dienst* level (engine and nautics) with a total time of approximately 20 hours. The administrative burden for issuing certificates is approximately 20-30 hours per ship. The burden is very much dependent on the number of certificates. By way of example, the cost of issuing two certificates is taken into account here, which is usually the normal case.

The design inspection and administrative burden could be reduced if necessary in the case of an own survey regime. One of the objectives of a design inspection is the verification of ship data. It can be assumed here that the relevant authority, under its own competence, is already aware of and has detailed knowledge of these data. The cost to the authorities, on the other hand, also involves correspondence between the various competent authorities in the shipping sector, which would therefore also disappear. For this reason, a lower cost is assumed in the case of a survey carried out by the authorities themselves, estimated at around 20 %. Around 20 % of 60 hours could be saved (12 hours) for the design inspection. As part of the costs to the authorities, 20 % of 20-30 hours could also be saved (5 hours).

There are currently around 200 public authority vessels flying the German flag which are approved by BG Verkehr under the Ship Safety Ordinance. BG Verkehr currently assumes that a large number of authorities do not have such a separate safety regime. It is currently not known how many public authority vessels will make use of the exemption provided for in the legislation. As this is estimated to be a small number, a percentage of 10 % is assumed. In summary, a saving of around EUR 16 thousand (-1 020 min. x 20 x EUR 42.50/h/60 = EUR 14 450) is calculated. Information on possible material costs cannot be provided

#### 4.2.2 Removal of the restriction on compass inspectors; § 8 Draft SchSV

Change in annual compliance costs of the Federal Government:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
6	-300	46.50	0	-1.4	
Change in compliance costs (in thousands of EUR)				-1.4	

By removing the requirement, the obligation that magnetic compass adjustment can only be carried out by a person recognised by the BSH or by a Member State of the International Maritime Organisation (IMO) ceases. Once the law has been amended, adjusters will no longer be recognised by a German body. However, the obligation to adjust compasses before entry into service and at least every two years thereafter remains. Thus, there is no longer any administrative activity for recognition, while the control of the compass and the table of deviations remains part of the survey.

Under the law in force, the documents received are examined and, if necessary, further documents are requested during a recognition procedure after an application has been received. Compliance with the conditions is then assessed on the basis of the documents.

<sup>3</sup> Guide to Calculating and Setting Out Compliance Costs for Regulatory Projects of the Federal Government (wage costs of EUR 46.50 at federal level for *gehobener Dienst* staff) L, p. 65

In the event of rejection, the corresponding official decision is issued. If recognition is granted, the certificate of recognition, together with a letter and a notice of costs, is sent by email. A distinction must be made between initial recognition and renewal of recognition, as there is a time limit of up to five years.

The BSH has indicated an average time required of 4 to 6 hours for both examinations. The initial examination is on average slightly more time-consuming at 6 hours. At the time of first application, the master's certificate, including proof of seagoing service as a ship officer, evidence of training on marine magnetism and documentation of adjustments performed must be attached to the application as proof of competence to carry out adjustment. On the other hand, in the event of a renewal, evidence of the last ten adjustments (adjustment reports and development tables) shall be provided. The total time required for both procedures is on average 420 minutes per case  $((240 + 360)/2)$ . The recognition is verified and issued by an employee at *gehobener Dienst* level. No material costs are incurred in the context of a recognition procedure. On average, 1-2 initial applications and around 4 applications for renewal are made annually, which will be eliminated by the legislative amendment and thus represent an annual saving of approximately EUR 1.4 thousand  $(-300 \text{ min.} \times 6 \times \text{EUR } 46.50/\text{h}/60 = \text{EUR } 1\,395)$  for the authorities.

#### 4.2.3: Removal of equivalence checks; § 9 Draft SchSV

Change in annual compliance costs of the Federal Government:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
234	-1,500	46.50	0	-52.31	
Change in compliance costs (in thousands of EUR)				-52.31	

The legislative amendment removes equivalence checks for ships flying foreign flags in coastal shipping. To date, BG Verkehr has carried out surveys in order to certify equivalence. The amendment to the Ordinance removes the burden of prior equivalence checks and certification for BG Verkehr. At the same time, port State control by BG Verkehr is to be stepped up. In port State control, surveys are carried out in accordance with the survey procedure of the Paris Memorandum of Understanding on Port State Control and Directive 2009/16/EC, following a risk-based approach. BG Verkehr therefore estimates that one third of the cost of surveys will thus be eliminated. As the expected burden of port State control is still hypothetical, it is not included in the compliance costs (Compliance Costs Guide, p. 9-10).

On average, about 150 surveys per year are carried out by employees at *gehobener Dienst* level for equivalence checks. Ships not older than 5 years shall not be surveyed for the annual renewal of their certificates. They shall be verified on the basis of the relevant flag State or class documentation to be provided by the applicant. In 2022, a total of 234 equivalence certificates were issued following a survey or a file inspection. Following the legislative amendment and removal of equivalence checks, approximately 234 fewer vessels will therefore be surveyed per year. A precise number cannot be predicted; smaller vessels cannot be easily identified and are only checked in certain cases. The cost of an equivalence check for vessels flying foreign flags is to be compared to the cost of flag State control for vessels flying the German flag. BG Verkehr estimates the total time required to be around 80 hours (approx. 30 hours for approval + approx. 20-30 hours administrative costs + approx. 20-30 hours for survey). Thus, EUR 52 thousand will be saved annually  $(-4\,800 \text{ min.} \times 234 \times \text{EUR } 46.50/\text{h}/60 = \text{EUR } 272)$ .

#### 4.2.4 Obligation of ship owner to notify BG Verkehr; § 13 (1) Draft SchSV

Change in annual compliance costs of the Federal Government:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
7.5	720	46.50	0	4.19	
Change in compliance costs (in thousands of EUR)				4.19	

The legislative amendment introduces a new obligation for action in §13(1) subparagraph. 1 SchSV. Accordingly, the ship owner is obliged to notify BG Verkehr before the repair and in the case of maritime accidents. A new aspect here is that BG Verkehr always has to be notified before the repair and not once the repair has been carried out. The obligations relating to the proper repair and restoration of the impairment-free approved condition and the obligation to inform the competent authority thereof shall remain unchanged (BG Verkehr and/or BSH depending on the event concerned). Even in the case of maritime accidents, only notification to the Federal Bureau for Maritime Casualty Investigation (BSU) and the Waterways and Shipping Administration (WSV) has so far been laid down as a rule of conduct. There has been no such notification obligation to BG Verkehr, as a statutory requirement, to date.

In practice, notifications, including prior to repairs and about maritime accidents, are already to a large extent also sent to BG Verkehr. However, the amendment to the Ordinance entails mandatory action and, therefore, legal certainty, by penalising non-compliance as an administrative offence. Therefore, an additional administrative burden related to the increase in administrative offence proceedings expected as a result of the legal certainty has been taken into account. The additional burden is estimated to be around 5 to 10 (on average 7.5) cases per year. The examination and administration burden for one administrative offence procedure is on average 1-2 working days per case. For example, it is necessary to consult the water police, to hear the person responsible for the action and to examine appeals and court proceedings. These tasks are mainly carried out by employees at *gehobener Dienst* level. The additional burden for the authorities is approximately EUR 4 thousand (720 min. x 7.5 x EUR 46.50/h/60 = EUR 4 185).

4.2.5: Ship-related cargo ship safety standard: In particular for small craft, including water taxis, offshore service vessels and on the freeboard; Part 6 and 7 Annex 1a Draft SchSV

Change in annual compliance costs of the Federal Government:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
600	3,240	46.50	0	1,500.60	
Change in compliance costs (in thousands of EUR)				1,506.60	

The legislative amendment introduces the surveying and certification by BG Verkehr for 'small craft'. A certificate shall be issued after the ship has successfully been surveyed as proof of compliance with all requirements. These surveys shall serve as the basis for ship safety certificates issued for the first time, renewed or extended. The scope and interval of all surveys are strictly prescribed and slightly different from each other.

The cargo ships in question here (=collective type designation for all ships which are not passenger ships as they do not carry more than 12 passengers) must be surveyed for the first time before they are first put into service and be certified for a maximum period of five

years. Thereafter, there is an annual survey to ensure that the certified condition is maintained, and acknowledgment of this pursuant to § 9(3) SchSV is also issued. In the case of small craft (=cargo ships under 24 m), the surveys are to take place before they are put into service and an intermediate survey between the 2nd and 3rd year if the certificate has been issued for more than 3 years.

Small craft between 3.60 and 8 metres are, for the first time, subject to ship-related safety requirements, which means a certificate obligation with a survey by BG Verkehr. Once the law has been amended, public authority vessels under 8 metres in length will also be subject to the survey and certificate obligation, i.e. a certificate must be issued for these ships. For small craft of 8 metres in length and above, the annual radio survey is new.

Certification is carried out by BG Verkehr, and the checking of radio technology is carried out by BSH. The costs incurred by both authorities are categorised as costs to the authorities addressed by the legislation. It is currently not possible to quantify precisely the number of vessels covered by the new rules. According to BG Verkehr, the number is at least three digits. As a result of the expansion in the group of addressees of the legislation to include small vessels of 3.60 metres in length and over, BSH expects an additional burden of 100 vessels per year.

The average time requirement for inspection of radio equipment carried out by an employee at *gehobener Dienst* level is between 3 and 5 hours per vessel per case. In this regard, it makes no difference whether it is an initial or a subsequent inspection. No material costs are to be taken into account.

BG Verkehr estimates that the time needed for certification of a small ship compared to a large ship to be half. As only one person does the survey, survey costs are already halved. As already stated in requirement 4.2.1, the total time required under § 9 SchSV is approximately 100 hours (design inspection 60 hours + 30 hours administrative costs + 20 hours for survey). Of this, 50 %, approximately 50 hours, are incurred for smaller small craft. One difficulty in calculating the compliance costs is the unknown number of different small craft. According to BSH and BG Verkehr, the number is between 100 or a medium to higher three-digit range and 1 000 vessels. As an average, the number of 600 vessels is used as the basis for the calculation. However, the different intervals by craft size cannot be taken into account when calculating the compliance costs, as the number by craft type and craft size cannot be determined within small craft.

The additional cost to the authorities is set out without taking into account different intervals and amounts to approximately EUR 1 500 thousand ( $3\,240 \text{ min} \times 600 \times \text{EUR } 46.50/\text{h}/60 = \text{EUR } 1\,506\,600$ ).

## **5. Other costs**

Fees are payable under public law, namely fees for the issue of a safety certificate for small craft with a length of 3.60 m to 8 m. According to preliminary estimates, these will amount to approximately EUR 393 000.

As an average, as when calculating compliance costs, the number of 600 vessels is used as the basis for the calculation. In terms of the fee level per case, a distinction must be drawn between the issue of a safety certificate prior to entry into service and its confirmation, on the one hand, and the issue of a safety certificate for existing ships, on the other, including confirmation of the interim survey. It is not possible to predict the number of cases per group, as already explained under 4., because of the heterogeneous inspection cycle. Calculations are therefore based on an average fee. In the first case, fees of EUR 749 are charged, in the second EUR 530 (see Article 2(3)(2)). This results in an average fee of EUR 638. According to preliminary estimates, this results in revenue generated from fees of approximately EUR 383 thousand  $((749 + 530) \times 600)$  per year.

## **6. Further consequences of the legislation**

No further consequences of the legislation are apparent. An impact assessment of equal treatment issues under § 2 of the Joint Rules of Procedure of the Federal Ministries (GGO) indicates no impact on equal treatment, as there is nothing to suggest that men and women will be affected differently by the legislation.

## **VII. Time limit; evaluation**

The exemption for public authorities in § 6(1a) SchSV, newly introduced by Article 1(1), is to be fully evaluated by the Federal Ministry for Digital and Transport no later than five years after its entry into force, taking into account the evaluation concept of the State Secretaries' Committee on Better Regulation and Bureaucracy Reduction of 23 January 2013 and its decision of 26 November 2019 on the further development of the Federal Government's evaluation concept and using the working aid for the evaluation of Federal Government regulations 2022. For the scope of the examination, the objective, the criteria and the basis of the data, see the explanatory notes in Part B on Article 1(1).

## **B. Specific Part**

### **Article 1 (Amendment to the Ship Safety Ordinance)**

#### **Point 1**

Ships which are state-owned or perform public authority functions and are not used for commercial purposes are usually not subject to the international ship-related safety standard, and therefore they are not subject to § 5 SchSV. To date, only vessels of the Federal Armed Forces and the German Sea Rescue Society have been exempted, by means of § 1(1) second sentence SchSV in conjunction with § 2(3) SchSG and by means of § 9(5) first sentence SeeAufgG, from the safety requirements imposed under § 6(1) SchSV in Annex 1a SchV that are in force in the Federal Republic of Germany in addition to the international safety standard. The new paragraph (1a) in § 6 SchSV means that ships of other State authorities are now no longer to be subject to the safety requirements of Annex 1a SchSV in order to improve the performance of their tasks. This creates a special status such as that granted to public authority vehicles in the road and air transport regulations, albeit to a different degree. Only cargo ships in accordance with Annex 1a Part 6 in conjunction with Part 7 are covered by the regulation in § 6(1a) in conjunction with § 6(1) subparagraph 6. In conjunction with § 9(3) first sentence subparagraph 2 SchSV, these no longer require surveys, certificates and acknowledgements under the SchSV. However, the amendment allows operators to continue to obtain from the competent authority the certificates and acknowledgments referred to in Annex 1a if an application is made in accordance with § 9(3) first sentence subparagraph 2 SchSV and if compliance with the applicable provisions of the SchSV has been established on the basis of an inspection. In individual cases, pursuant to Regulation 3 in Chapter 4 of Part 6 of Annex 1a SchSV, BG Verkehr may grant exemptions for public authority craft from the requirements to be complied with under this Part, provided that this is necessary for the performance of public authority tasks. The reason for the continued possibility of applying for a certificate is that, in many cases, the authorities may consider it appropriate to obtain a ship certificate for the craft they use for the performance of public authority tasks, in particular with regard to the criteria for the exemption in the new § 6(1b) SchSV or because of advantages in international navigation. § 9(3) first sentence subparagraph 1 in conjunction § 5(1) to (4) with regard to certificates and acknowledgements for the international ship-related safety standard remains unaffected by this amendment.



This exemption is also intended to cover vessels which provide professional support to public authorities in the performance of public authority tasks and are commissioned by them for these purposes or used themselves, irrespective of whether they have public official status and of the form of organisation. Public (such as German Red Cross, German Life-Saving Association, Arbeiter-Samariter-Bund) and private and municipal services and organisations are eligible. Also covered are 'private' craft, i.e. craft not managed by a public authority, such as research vessels. Cases are therefore covered in which the authority does not have its own vessels, but avails itself of these to carry out its tasks as a public authority. These are tasks which a public administration is required to perform by virtue of public law and which are therefore entrusted to a public authority. In such cases, the contracting authority shall supervise the operation and shall be responsible for the safety of the ship. The exemption relates only to use for public authority tasks and does not apply if the vessel is used for commercial purposes.

The background to creating an exemption from the scope of § 6(1) SchSV by means of a new paragraph (1a) is that, as a result of their specific use profile, public authority vessels, such as those used by the police and customs, are often unable to meet the requirements for construction and equipment developed for civilian vessels, for example when equipped with on-board ordnance. In such cases, for example, the approach to shipbuilding may be so different that assessment against the existing technical standards is not possible. It is also sometimes necessary to store materials and substances on board for which the rules on the transport of dangerous goods by sea cannot be fully complied with (IMDG Code). The exemption is also intended to facilitate the procurement of public authority watercraft on the market. The need for an exemption is also based on the fact that the operational planning of craft used by public authorities cannot always be adapted to the prescribed intervals for survey and certification. In particular, in the event of a survey by staff of classification societies, the protection of information which is sometimes required on public authority vessels cannot always be adequately guaranteed.

Finally, possible cost savings for public budgets are to be taken into account, as some public authorities already have their own survey capacity and certification procedures in place, meaning that the exemption will eliminate time-consuming and costly double surveys with the classification societies or BG Verkehr.

The alignment of the State administration with the law, as anchored in the Basic Law, justifies the exemption from the survey and certificate obligation, in the light of a risk-based approach. Paragraph (1b) requires the State authorities to ensure a level of safety comparable to the ship safety requirements of Annex 1a SchSV by taking appropriate measures. This includes the development of a safety concept internal to the authority, which provides for its own expertise in the area of ship technology in order to monitor compliance with the necessary (minimum) ship safety requirements, including regular surveys of ships, including in dry dock. For cooperation purposes in monitoring ship safety and the protection of seafarers, agreements may also be made with other authorities and bodies, such as the Federal Armed Forces or classification societies.

If no application is made pursuant to § 9(3) first sentence subparagraph 2 SchSV and the ship is therefore not subject to national safety standards, the relevant authority has sole responsibility for ship safety. BG Verkehr does not monitor these vessels as part of its powers under § 11 SchSV.

If, within the framework of § 6(1a) first sentence subparagraph 2 SchSV, small craft under 8 metres in length are used and an application pursuant to § 9(3) first sentence subparagraph 2 is made for the issue of all the necessary certificates and confirmations, the operator responsible for carrying out public authority tasks shall benefit from the fee exemption also introduced by Article 2(3)(1) of this amending Ordinance.

The effect of the new exemption for public authorities in § 6(1a) SchSV is to be fully evaluated by the Federal Ministry for Digital and Transport no later than five years after its entry into force, taking into account the evaluation concept of the State Secretaries' Committee on Better Regulation and Bureaucracy Reduction of 23 January 2013 and its decision of 26 November 2019 on the further development of the Federal Government's evaluation concept and using the working aid for the evaluation of Federal Government regulations 2022. The aim is to examine whether the new rules have made it easier for the sea-faring authorities to fulfil their public authority tasks, including with regard to the operation and acquisition of their ships, while maintaining a level of safety comparable to that achieved by the ship safety requirements. The cases in which use has been made of the exemption for public authority vessels are to be examined. In particular, the following criteria may be taken into account: the number of times the exemption has been used; the type of vessel, authority and operational purposes concerned; financial savings and reduction of tactical-operational restrictions. It is also to be examined whether, in cases where the exemption was used, a safety concept was in place for the relevant authority and how this was designed in order to achieve a comparable level of safety. Criteria here may be: expertise, number and type of surveys and reports of accidents and ship safety-related incidents. The data basis for this evaluation will be the targeted consultation of all maritime authorities at federal and Land level, and, where appropriate, investigation reports of the Federal Bureau for Maritime Casualty Investigation. The evaluation will also be assisted by the Ship Safety Division and the ship technology unit of the Federal Waterways Engineering and Research Institute.

## **Point 2**

This is a consequential adjustment as a result of the repealing of Subsection A.I of Annex 1 SchSV by Article 1(9)(a)(aa). The inspection obligations concerning the equipment and the granting of exemptions in this respect are governed by directly applicable Union law, in particular the corresponding provisions of Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC, as amended (point 10 of Section D of the Annex SchSG).

## **Point 3**

The new version of § 8 SchSV includes an amendment to its heading, renumbering of the paragraphs and the deletion of paragraph (3). The current paragraph (2) becomes the only paragraph of the provision, with its wording unchanged.

The repealing of the provisions on radio terminals in § 8(1) SchSV by Article 2(2)(a) of the [Ordinance introducing a marine equipment ordinance and amending other maritime transport legislation of 1 October 2008 \(BGBl. I p. 1913\)](#) has made the reference to this subject-matter in the heading of § 8 SchSV obsolete.

By removing paragraph (3), the obligation that magnetic compass adjustment can only be carried out by a person (adjuster) recognised by the Federal Maritime and Hydrographic Agency (BSH) or by a Member State of the International Maritime Organisation (IMO) ceases. However, the obligation to adjust compasses before entry into service and then at least every two years thereafter remains. As a result of the present amending Ordinance, this obligation is now included in Subsection C.I.4 of Annex 1 SchSV because of the regulatory context.

The reason for removing the obligation for BSH to recognise adjusters is, on the one hand, the desire to bring the requirements for ships flying the German flag in line with international procedures. Under paragraph 2.1.1 of Regulation 19 of Chapter V of Annex 1 to the International Convention for the Safety of Life at Sea (SOLAS), all ships, regardless of their size, shall be equipped with a properly adjusted magnetic standard compass or other means, independent of any power supply, to determine the ship's heading and dis-

playing the determined values at the main steering position. International ship safety law does not specify how 'proper' adjustment is to be organised and by whom it is to be carried out. There is no international uniform practice in this regard; the European Union also has not adopted a uniform approach. IMO Resolution A.1140 (31) (Survey Guidelines under the Harmonised System of Survey and Certification – HSSC) recommends only the establishment of a properly adjusted magnetic compass and the carrying of a deviation table or curve, as was the case previously in Resolution A.382 (10).

On the other hand, an adjuster recognised by BSH or a Member State of the IMO is rarely available abroad, meaning that compass adjustment, meeting the current requirements arising from § 8(3) SchV, cannot generally be carried out abroad for ships under the German flag. Where adjustment is carried out abroad, masters, classification society and the German monitoring authorities, including the BSH, often fail to appreciate how the national practices and legal conditions of the foreign port State are organised. However, this would be necessary in order to check whether the formal requirements of § 8(3) SchSV have been met.

Finally, the procedure to be carried out by BSH for the recognition of adjusters, including the certificate of expertise currently required by § 8(3) SchSV, is extremely burdensome, especially since the criteria for equal access to a public office laid down in Article 33(2) of the Basic Law (Grundgesetz – GG) must be complied with.

Removing recognition of adjusters by BSH does not reduce the safety standard. Proper adjustment may be adequately documented on the basis of the inspection results of the previous 12 months in the deviation table or curve to be carried for port and flag State inspections. Whether adjustment has been carried out properly therefore remains under regular state control.

#### **Re Point 4**

##### **Re a**

The rewording updates the static reference to the IMO Survey Guidelines under the Harmonised System of Survey and Certification (HSSC).

##### **Letter (b)**

The requirement for a certificate of equivalence is being removed for the ships referred to in § 9(6) SchSV, which is being repealed. This is because ship surveys, which are a prerequisite for the issue of a certificate of equivalence, also had to be carried out before the first operation, even if there was no risk to ship safety and there were valid national certificates from other flag States. In view of the EU freedom to provide services which applies in this area of maritime transport (Regulation (EEC) No 3577/92 and Regulation (EEC) No 4055/86), it is therefore no longer appropriate to maintain a system of prior official authorisation. Safety concerns will continue to be taken into account by the system of port State control laid down in international and European law: Article 3(2) of Directive 2009/16/EC, which is applicable domestically by virtue of § 5 SchSG in conjunction with point 8 of Section D of the Annex to SchSG, allows the port State to take the necessary measures in the case of ships to which an international agreement does not apply in order to ensure that such ships do not manifestly pose a risk to safety, health or the environment. Therefore, in the practice of other EU countries, there is no provision comparable to the current equivalence inspection. Nor is such a system known internationally. In fact, all States examined use only the port State control procedure to inspect foreign-flagged ships. If, in the past, a coastal State questioned the safety of a foreign-flagged vessel on the grounds of very serious differences in the safety standard, the missing standards could be enforced within the regulatory framework of port State control.

The requirement for a certificate of equivalence that is being removed has, to date, affected many installers and supply vessels for offshore facilities. With regard to possible disadvantages for vessels flying the German flag as a result of the removal of equivalence checks for foreign-flagged ships in coastal shipping, it should be noted that disadvantages arise primarily from German maritime safety law and its enforcement. Any competitive disadvantage for the German shipping industry that may arise after the removal of the equivalence requirement is therefore best addressed by aligning the national shipbuilding and safety requirements for the German flag with uniform European and international standards. A major step towards this is the present draft recasting the rules for small craft (Article 1(10)(d)) which is based on globally recognised modern industry standards for these ships. Competitive disadvantages for the German flag as a result of the removal of equivalence checks are thus already eliminated for the majority of the vessels concerned. In addition, the system of prior official approval for installers and supply vessels constitutes a bureaucratic barrier to the expansion of offshore wind energy in Germany. The surveys carried out in connection with the issue of certificates of equivalence represent a significant part of the total number of surveys, and therefore the workload for BG Verkehr is being reduced.

#### **Letter (c) and letter (d)**

The repealing of § 9(6) SchSV requires a consequential amendment in the current paragraph (7), where the references to the current paragraph (6) are being deleted, and the subsequent paragraphs are being renumbered in order to retain intact numbering within § 9 SchSV.

#### **Point 5**

The amendment deletes the last clause of the paragraph, including the reference to the Paris Memorandum of Understanding of 20 July 2000 on Port State Control (Paris MoU). The aim of this drafting is to simplify the procedure by not requiring an official German translation when amendments to the Paris MoU are announced. The Paris MoU is not an international treaty but a cross-border administrative agreement within the meaning of § 4(3) of the Guidelines for Dealing with International Treaties (RvV) pursuant to § 72(6) GGO. In the future, the translation and publication of amendments in the Federal Law Gazette is therefore no longer required. As the legal reference will no longer refer to a German-language translation, this should be deleted for formal reasons. Other steps are taken to ensure that, in determining whether a ship manifestly poses a direct danger to ships, shipping or shipping facilities, health, the coast or the environment, the enforcing authorities are guided by Annex 1 to the Paris MoU.

#### **Point 6**

Some conduct obligations under § 13 SchSV require revision.

#### **On Letter a**

#### **On Double letter (aa)**

Firstly, the redrafting of § 13(1) subparagraph 1 SchSV is editorial in nature, since a further subdivision now lists the actions which the shipowner must carry out consecutively and cumulatively in the case of events having a negative impact on the effectiveness or operational safety of the approved condition.

New here in terms of content are the expansion of the list of events that trigger these obligations to include marine accidents and reportable events within the meaning of § 7(2) of the Ordinance on the Safety of Maritime Shipping as further events which impair the approved condition and, in particular, manifestly impair the effectiveness or operational

safety and thus have a significant impact on safety at sea. The concept of a marine accident is defined in § 1a(1) of the Maritime Safety Investigation Act.

Also new is the expansion of the list of obligations to act to include notification to BG Verkehr of the existence of an event which manifestly impairs the approved condition and the effectiveness or operational safety. The aim is to ensure that BG Verkehr, as the competent authority under § 6 SeeAufgG, is not informed only after a repair has taken place, but must be notified in advance of the existence of significant changes to the vessel or equipment and the other events mentioned. After the repair, the person responsible must prove to the competent authority that the impairment-free approved condition has been restored. This should enable the authority to take any necessary measures. Under § 16(5) SchSV in conjunction with § 6 SeeAufgG, BG Verkehr is also the competent authority under § 13(1) subparagraph 1 SchSV. In the case of maritime accidents, however, there has only been an obligation to date to notify the Federal Bureau for Maritime Casualty Investigation (§ 7 Ordinance on the Safety of Maritime Shipping) and the competent waterways and shipping administration under § 37(2) and (3) of the Navigable Maritime Waterways Code. BG Verkehr, which is competent for maritime safety under § 6 SeeAufgG, therefore often only became aware of accidents or other significant safety-related incidents via third parties. The purpose of the amendment is to support the effective performance of tasks by the competent authority, in particular with BG Verkehr now also being a direct notification recipient.

#### **Double letter (bb)**

Since being amended by Article 1(6)(c)(bb) of the Ordinance of 7 March 2018 (BGBl. I, p. 237), § 9(4) SchSV has no longer stipulated an inspection certificate. Accordingly, the keeping of such a certificate is therefore to be deleted from the list of obligations set out in subparagraph 4.

Replacing the words 'in place' with the words 'is carried' should make it clear that the said documents must be kept on board and carried. With respect to Article 1(7)(a)(aa)(ccc) an adjustment is being made to the wording governing penalties in accordance with the principle of linguistic and substantive harmonisation between the administrative legislation and penalty enforcement.

The newly inserted subparagraph 5 in § 13(1) SchSV creates an independent obligation to ensure the presence of proper, functional and approved facilities and equipment in accordance with the safety certificate. The provision is necessary as this obligation is not clearly covered by the conduct obligations in § 13(1) SchSV as currently worded.

#### **On Letter b**

#### **On Double letter (aa)**

The new text clarifies the requirements for transmission operations that are to be ensured by the master. New in this respect is the express reference made here to the revised guidelines on shipborne automatic identification systems (AIS) adopted by the International Maritime Organisation (IMO) by means of Resolution A.1106(29) on 14 December 2015. Finally, the reference to the relevant regulations of the SOLAS Convention has been revised in the new version, by aligning the rule citation with that of § 13(2)(4) SchSV and by extending the scope of the reference to the entirety of Regulation 19.2.4 in Chapter V of Annex 1 to the SOLAS Convention, in particular to Regulations 19.2.4.5 and 19.2.4.7 with their requirements for functional scope and use in accordance with the guidelines adopted on this. Unlike the current reference, which only included, as a transitional provision, the exceptions to equipment requirements, the new reference fully covers the scope of the conduct obligations in accordance with international standards on the use of AIS.

An AIS in operation can determine the location of a ship very precisely and is used to avoid collisions through automatic exchange of information between ships, with shore stations and with navigation control centres. It is therefore a means for safeguarding maritime transport and an important contribution to ship safety and ease of navigation. The more dense maritime traffic is, the more necessary data exchange becomes – especially within the scope of the SchSV as one of the world's busiest regions. AIS also supports rescue at sea by allowing the location of the ship to be determined exactly in the event of an emergency.

If the AIS does not transmit signals or transmits signals of such a short range that they are not received by the shore stations for the areas to be safeguarded, the very purpose of the provision is not fulfilled. If a device does not transmit data, this endangers not only the ship, crew and passengers, but also other ships, shipping facilities and the (marine) environment. It is therefore necessary to provide the responsible persons with clear and unambiguous conduct obligations. This is the purpose of the redrafting.

The reference in the obligation to the international regulatory framework is intended to make it clear that compliance with the relevant requirements is a prerequisite for proper operation within the meaning of § 13(2) subparagraph 4a SchSV. This includes, firstly, that the AIS device used complies with the relevant requirements of the International Telecommunication Union Recommendation ITU-R M.1371. This is applied through AIS Performance Standards MSC.74(69) and Regulation 18.2 in Chapter V of Annex 1 to the SOLAS Convention. Secondly, the AIS must be switched on by the master at all times. In doing so, they shall ensure that it transmits at the maximum power specified for the relevant voyage and transmits the AIS data in full. These requirements for proper transmission operations are set out in Resolution A.1106(29) of 14 December 2015 (VkBl. 2022 p. 576) with its guidelines for the use of AIS equipment on board. They also reflect § 4.07 of the Inland Waterways Code (BinSchStrO) and correspond to § 1 of the Ordinance governing the use of AIS on craft not subject to equipment carriage requirements (AISSeeV).

According to the technical equipment requirements of Recommendation ITU-R M.1371, AIS equipment is to have two transmission power levels: in addition to a 'low setting' with a rated power of 1 W, a 'high setting' of nominally 12.5 W. When approving the AIS on the basis of Implementing Regulation (EU) 2021/1158, the test standard IEC 61993-2:2018 is applied, which sets a permissible tolerance of  $\pm 1.5$  dB for transmission power under normal environmental conditions. In any event, depending on the variable broadcasting conditions, a range between 20 and 30 nautical miles is normally to be achieved at the high rated power level (Regulation 10) in accordance with Resolution A.1106(29) which is definitive for such operations. The conditions under which an AIS may be switched off or operated in the port are set out in the accompanying guidelines for the use of AIS on board (Regulation 22).

The reference to the international requirements for proper transmission operations provides better legal certainty and infringements can now be better determined for the addressees of the legislation. This was previously not the case where the AIS was switched on but the power was set at '0 Watts' and the signal was therefore only sent a few hundred metres.

### **Double letter (bb)**

First, the new version makes a linguistic revision and, second, it supplements the obligation to record entries with a reference to the list of events that require entry as published in accordance with Section B.II point 7 of Annex 1 SchSV. The purpose of this insertion is to clarify which individual events are expressly to be documented in the maritime logbook in accordance with international regulations or other legislation. The action expected of the person to whom the legislation is addressed is thus specified in more detailed and is easier for said addressee to identify.

### **Double letter (cc)**

This is an editorial amendment in order to delete a reference that has become obsolete. Since being amended by Article 1(6)(c)(bb) of the Ordinance of 7 March 2018 (BGBl. I, p. 237), § 9(4) SchSV has no longer stipulated an inspection certificate.

### **Letter (c)**

This provision is essentially identical to the wording of the first sentence of § 5 of the Ordinance on the International Regulations for Preventing Collisions at Sea of 1972 and the first sentence of § 7 of the Navigable Maritime Waterways Code (SeeSchStrO). In the same situations as those in which police craft and other emergency craft in public service at federal or Land level are exempt from compliance with navigation regulations, the provision is intended to exempt them from the obligation of having the Automatic Identification System (AIS) switched on at all times.

The AIS is used to exchange navigation and other ship data in order to increase the safety and ease of navigation. This data allows other water users to identify, inter alia, the position, heading and navigation values, as well as the name of the vessel and the port of destination. This data is intended for use by maritime shipping and also by the traffic centres of the Waterways and Shipping Administration. However, it can also be freely accessed by anyone via various commercial providers on the Internet. All federal police, Land police and customs craft are equipped with an AIS. The obligation to keep the AIS in operation on a permanent basis severely restricts police deployment and tactical measures in practice. Permanent operation of the AIS and thus a continuous open broadcast of the position of the service craft make it impossible to carry out covert intelligence or surveillance measures. This obligation also makes the protection of endangered craft more difficult, as police adversaries can monitor the location and movement of service craft in real time. In addition, AIS signals can be used to create movement patterns of the service craft over longer periods of time.

In order to be exempted from the obligation to keep the AIS operational at all times, account must be taken of public safety and public order in the specific case. This requires a weighing up of the situation between, on the one hand, the risks to navigational safety and the environment and, on the other hand, the impact of insufficient performance of tasks on public safety and public order.

Prior to the inclusion of the AIS obligation in the list of § 13(2) SchSV by means of Article 2(4)(b)(aa) of the Fourteenth Ship Safety Adaptation Ordinance of 23 January 2014 (BGBl. I, p. 78), such service craft, in their capacity as special government craft, were already exempted under international law from the obligation to operate AIS permanently (SOLAS Chapter V, Regulation 1 Paragraph 1). This legal situation is also to be restored at national level.

### **Letter (d)**

The amendment updates and adapts the international requirements of the STCW Code related to the conduct obligations and reflects the new spelling conventions. The continuation of the general provision for watchkeeping set out in the first subparagraph, even in the case of pilot guidance, is in accordance with the Regulations of Part A Chapter VIII/2 subparagraph 49 first and third sentences, and subparagraph 50.

### **Letter (e)**

The amendment updates the international requirement of the STCW Code related to the conduct obligation. The Regulations in Part A Chapter VIII/2 nos 54 to 83 provide individual instructions as to how safe technical watchkeeping within the meaning of Regulation no 53 is to be established.

## **Point 7**

Some administrative offences under § 14 SchSV have been subjected to editorial amendment, while additions have been made to others.

### **Letter a**

#### **Double letter aa**

#### **Triple letter aaa**

In accordance with the conduct obligations extended by Article 1(6)(a)(aa), the offences covered are being added in § 13(1) subparagraph SchSV. This is therefore a consequential amendment.

#### **Triple letter (bbb)**

Consequential editorial amendment due to Article 1(7)(a)(aa) (ddd).

#### **Triple letter (ccc)**

Consequential amendment due to Article 1(6)(a)(bb).

#### **Triple letter (ddd)**

Consequential amendment due to Article 1(6)(a)(bb).

#### **Double letter (bb)**

The deletion reflects the amendment in Article 1(6)(a)(bb)

### **Letter (b)**

This amendment leads to an extension of the penalisation for a breach of the obligation to properly operate an automatic identification system (AIS): Also in the case of foreign-flagged vessels, a corresponding breach by the master should be punishable as an administrative offence. Under § 13(5) SchSV, the conduct obligation has already applied to foreign-flagged vessels since the corresponding amendment by the 14th Ship Safety Adaptation Ordinance (BGBl. I 2014 p. 78). The associated consequential amendment in § 14(2) SchSV is hereby made.

According to the Federal Police, there have been repeated breaches of the obligation to keep the AIS in operation in the recent past. In March 2023, four Dutch fishing vessels without an AIS signal were detected in the Terschelling-German Bight traffic separation area. In addition, Russian merchant vessels have repeatedly been discovered by the Federal Police in the German EEZ without their AIS being switched on. The amendment therefore also serves to ensure effective traffic monitoring and enforcement of penalties.

Under §14(1) SchSG, the general rules of international law and international treaty law must be observed when inspecting foreign-flagged ships.

### **Letter (c)**

The new version of § 14(3) SchSV amends the division of responsibilities for the prosecution and punishment of administrative offences.



### **Double letter (aa)**

Instead of BG Verkehr, as is currently the case, the Directorate-General for Waterways and Shipping (GDWS) is now responsible for prosecuting and punishing breaches of § 13(2) subparagraph 4a SchSV (AIS obligation) pursuant to § 14(1) subparagraph 2 letter (e) and of § 13(3) subparagraphs 1 to 4 SchSV (obligations of the deck officer) pursuant to §14(1) subparagraph 3.

This is because these are typical traffic-related administrative offences which are detected by the GDWS, in particular when dealing with accidents. There is a thematic proximity to traffic monitoring.

### **Double letter (bb)**

Jurisdiction for the other administrative offences referred to in paragraph (1) is transferred to BG Verkehr. This is because the other substantive provisions underlying the conduct obligations laid down in § 13 SchSV fall within the remit of BG Verkehr, so that corresponding jurisdiction is also appropriate for the administrative offence proceedings.

In the event of punishing and prosecuting a breach of § 14(1) subparagraph 1a, BG Verkehr is, as in the past, supported by BSH. This is because the owner is obligated to notify BSH of significant changes relating to radio/navigation. In addition, BSH prosecutes shortcomings relating to acceptance/monitoring in this area.

### **Point 8**

The new § 17 satisfies the formal legal requirement to indicate the place of publication and safekeeping in the case of static references to private rules. In terms of content, Section E of Annex 1 SchSV is reproduced without change.

### **Point 9**

Article 1(9) contains the amendments to Annex 1 to the SchSV with its specific regulations on the international ship-related safety standard. It concerns Section A on EU legal acts (letter (a)), Section C.I of SOLAS (letter (b)) and Section D with its specific requirements for the operation of foreign-flagged ships (letter (c)).

### **On Letter a**

#### **On Double letter (aa)**

The need to delete Subsection A.I of Section A of Annex 1 SchSV follows from Article 40(1) of Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC. This stipulates that Directive 96/98/EC is repealed with effect from 18 September 2016. There is no need to replace it with a new national provision, as there are EU implementing regulations in this area which, because of their legal nature, have direct legal effect at national level.

#### **Double letter (bb)**

The renumbering has been carried out as a result of the deletion of Subsection A.I of Section A of Annex 1 SchSV by means of Article 1(9)(a)(aa).

## **On Letter b**

### **On Double letter (aa)**

The purpose of this amendment is to restore the wording as it was before the Nineteenth Ship Safety Adaptation Ordinance of 3 March 2020 (BGBl. I p. 412) applied. The definition is aligned with the regulations on recreational craft. The safety criteria for watercraft with hull lengths between 2.5 metres and 24 metres that are used for sports and leisure purposes are subject to Directive (EU) 2013/53 on recreational craft and personal watercraft, as well as watercraft which can also be used for chartering or sports and leisure training purposes at the same time. The use of the term 'exclusively for sports and pleasure purposes' may therefore lead to difficulties in delimitation, especially since the Ordinance on recreational craft and personal watercraft, which transposes this EU Directive, also uses the term 'sports and leisure purposes'

### **Double letter (bb)**

The new point 4 in Subchapter C.I.4. of Annex 1 SchSV reflects the deletion from § 8(3) SchSV of the obligation to adjust magnetic compasses on a regular basis brought about by Article 1(3) and the master's obligation to check deviation (see 1. below). Unlike under the current provision in Section 8(3) SchSV, adjustment no longer needs to be carried out exclusively by a person recognised by BSH or by a Member State of the IMO (see 2. below). In addition to the current provision in § 8(3) SchSV, the form of proof of adjustment to be carried is being clarified insofar as the deviation determined by the master during his regular controls must be entered in a deviation table (see 3. below). A further addition to the current provision in § 8(3) SchSV is the specification of a maximum deviation as the objective of adjustment (see 4. below).

1.

Following the removal of recognition of adjusters by BSH and the associated grounds for jurisdiction and assignment of tasks, subchapter C.I.4. of Annex 1 SchSV is the more appropriate place to regulate compass adjustment. This is because it is a supplementary provision for the application of point 2.1.1 of Regulation 19 of Chapter V of Annex 1 to the 1974 International Convention for the Safety of Life at Sea (SOLAS).

The objective of the adjustment of magnetic steering compasses is to prevent the dangers arising from the deviation of the compass indicator on board to ship safety and thus to the usability of the compass as a navigation device. Magnetic compass deviation (deviation of the north end of the magnetic compass needle from magnetic north) is based on the fact that, in addition to the earth's compass-righting magnetic field, on a vessel at the compass location, a large number of 'vessel magnetic fields' are acting, which, in all headings, lead to a change in the field intensity of the compass. Where a magnetic steering compass is not adjusted regularly, the earth's magnetic field (which should right the compass) may, because of the ship's interfering magnetic fields, be weakened on certain headings to the extent that a particular change in vessel field strength leads to much greater deviation than would be possible with a properly adjusted compass. The purpose of the adjustment of magnetic steering compasses is to reduce the deviation of the compass indicator on board to an acceptable level, to compensate as far as possible for the magnetic field intensity on the various headings and to increase as far as possible the mean value of the magnetic field intensity righting the compass.

2.

See, in this regard, the explanatory notes on Article 1(3).

3.

The new, express mentioning of a deviation table as the place for entering identified deviations in order to demonstrate adjustment is in line with current practice and is provided for clarification. The carrying of a deviation table as proof of adjustment is in line with the international safety standard: Recommendation 3 of Annex I to IMO Resolution A.382 (X) and technical standard G.7 of DIN ISO 25862:2021-01 also address this issue. The prescribed documentation period of 12 months is necessary in order to be able to understand the periodic deviation checks to be carried out by the master. A longer period is not appropriate for physical reasons, as the vessel is often exposed to too many magnetic influences during this period.

4.

The value of the maximum permissible deviation immediately after adjustment should comply with the international standard in accordance with DIN ISO 25862:2021-01. Technical standard G.1 in Annex G to DIN ISO 25862:2021-01 provides a maximum deviation of 3 degrees for ships of 500 gross tonnage or more and a maximum deviation of 4 degrees for ships below 500 gross tonnage. For safe navigation, accuracy should be within a range of 2 degrees.

#### **Letter (c)**

This is a consequential change due to Article 1(4)(b).

#### **Point 10**

Article 1(10) contains the amendments to Annex 1a SchSV with its provisions on the ship-related safety standard in the cases referred to in § 6 and § 6a SchSV.

#### **Letter (a)**

Article 1(10)(a) contains amendments to Part 1 of Annex 1a SchSV on the safety requirements for the construction, equipment and operation of passenger ships.

#### **Double letter (aa) and double letter (bb)**

The amendments to Regulation 1.1 and Regulation 1.2 in Part 1 of Annex 1a SchSV align the text of the legislation with recent amendments to Directive 2009/45/EC and thus clarify the relationship of new passenger ships under 24 metres to that regime. To this end, the new version of Regulation 1.1 redrafts its current second sentence: Letters (a) and (b) are deleted, which makes the current letter (c) the sole content of the second sentence, which means that subdivision is no longer appropriate. In Regulation 1.2, letter (b) is deleted and the subdivision is deleted.

Directive (EU) 2017/2108 excluded from the scope of Directive 2009/45/EC new and existing passenger ships under 24 metres in length. Since then, Article 3(1)(a) of that Directive has set 24 metres as a minimum size for ships falling within the scope of the Directive. However, Chapter 1, Regulation 2 of its Annex I continued to lay down requirements for new vessels under 24 metres in length, subject to separate national regulation with the same level of safety. This has, to date, been taken into account by the old Regulation 1.2(b) of Part 1 of Annex 1a SchSV.

Delegated Regulation (EU) 2020/411, applicable since 19 September 2021, has now removed all technical requirements for passenger ships under 24 metres in length from Annex I to Directive 2009/45/EC (see recital 3 of Delegated Regulation (EU) 2020/411). Therefore, for new ships under 24 metres in length, the other provisions of the Annex to Directive 2009/45/EC are not merely inapplicable within the meaning of the old Regulation 1.2(b) of Part 1 of Annex 1a SchSV, but these ships are no longer subject to Directive 2009/45/EC at all, which means they now fulfil the condition laid down in the first sentence

of Regulation 1.1 in Part 1 of Annex 1a SchSV. They are no longer a case of Regulation 1.2. Consequently, Regulation 1.2(b) is to be deleted.

In Regulation 1.1, the illustrative list of ships which are not subject to Directive 2009/45/EC and for which Part 1 of Annex 1a SchSV is mandated, is to be deleted. These ships can be inferred precisely from Article 3(1) and (2) of Directive 2009/45/EC, without the need to list them individually in Regulation 1.1. Only the current letter (c) of Regulation 1.1 is retained, since it contains the reference to Part 3 of Annex 1a SchSV, according to Chapter 1 Regulation 1.2(a) of which traditional ships of more than 55 m in length carrying more than 12 passengers are also subject to the safety requirements of Part 1 of Annex 1a SchSV. Thus, the second sentence of Regulation 1.1 of Part 1 of Annex 1a SchSV continues to draw the attention of the user of the law to the fact that, in the case of historical passenger ships, the scope of Parts 1 and 3 of Annex 1a SchSV must be distinguished from each other.

#### **Double letter (bb)**

#### **Double letter (cc)**

The amendment aligns the definition with Part 6 of Annex 1a SchSV and with the Maritime Recreational Craft Ordinance.

#### **Double letter (dd)**

The addition to Regulation 3.1 makes it clear which requirements of Directive 2009/45/EC with regard to damage stability and fire safety shall apply to passenger ships under 24 metres in length. This is intended to enable, on the one hand, 'deterministic calculation' of damage stability for these vessels and, on the other hand, to enable them to be equipped with a fixedly installed fire detection and fire alarm system instead of an automatic sprinkler system.

Delegated Regulation (EU) 2020/411, in force since 19 September 2021, reorganised Annex I to Directive 2009/45/EC and lists the deterministic damage calculation only in Section 1 of Annex I, which contains the requirements for passenger ships the keel of which was laid before 19 September 2021. Where the keel was laid more recently, however, the Directive provides, in Section 2 of Annex I, for a probabilistic calculation. In the case of passenger ships with a high number of passengers, this results in a particularly small watertight subdivision of the hull, which is difficult to implement from a structural point of view for small ships designed for short distances. Therefore, in order to observe the principle of proportionality while maintaining a high level of safety, the requirements of Section 1 of Annex I to Directive 2009/45/EC should continue to be used for the calculation of the damage stability of passenger ships under 24 metres in length, irrespective of the date on which the keel was laid.

With regard to fire safety, Regulation 13 of Chapter II-2, Part B of Section 1 has to date enabled the option of installing a fixed fire detection and fire alarm system instead of an automatic sprinkler system. However, Regulation 10 of Chapter II-2, Part C of Section 2, applicable since Delegated Regulation (EU) 2020/411 to ships the keel of which was laid on or after 19 September 2021, requires an automatic sprinkler system. This creates structural difficulties for vessels under 24 metres in length: The specific requirements regarding sprinkler spacing and positioning have a negative impact on the division of the hull and are therefore technically unsuitable for small ships and cannot be implemented proportionately. However, Regulation 13 of Chapter II-2, Part B of Section 1 of Annex I to Directive 2009/45/EC has to date proved effective in the field of fire safety and offers equivalent safety for passenger ships under 24 metres in length. It should therefore continue to apply to ships the keel of which was laid on or after 19 September 2021.

## **Letter (b)**

For passenger ships operating only within the port area of the island of Helgoland, the newly inserted Part 1a in Annex 1a SchSV creates a specific safety standard.

The ferry, which transports passengers between the main island and dunes in Helgoland, is to be replaced by a modern and environmentally friendly new vessel. The EU Passenger Ship Directive (Directive 2009/45/EC) lays down safety requirements for the construction of new passenger ships based on international rules for cruise ships operating worldwide. However, particularly with regard to the necessary safety equipment, it is not possible to achieve environmentally friendly short-haul traffic for Helgoland on this basis. Moreover, the safety standard established by the EU Passenger Ship Directive is not necessary for ferry traffic between the main island and dunes due to local conditions. The natural landscape conditions between the main island and dunes mean a sheltered area is shielded off from the open sea.

The sea area between the main island of Helgoland and the dunes was therefore categorised as a port area and the sea chart was amended accordingly (published in Notices to Mariners Volume 51/2020). In accordance with Article 4(2) of Directive 2009/45/EC, the European Commission was informed of this by a communication of 7 January 2021. As a result, new passenger ships operating in the port area are no longer subject to the inappropriate requirements of the EU Passenger Ship Directive (Article 3(2)(a)(viii) and (b)(iii) in conjunction with Article 2(r)). Instead, a different safety standard adapted to the specific circumstances of Helgoland should apply.

The safety rules of the new Part 1a build on the International Code of Safety for High-Speed Craft (HSC Code 2000, VbBl. 2002, p. 449), without a minimum speed of the vessel being specified. For the craft used for ferry traffic between main island and dunes, the speed characterising a high-speed craft cannot be reached. Nevertheless, the HSC Code 2000 is intended to form the basis for regulation, since its safety concept based on third-party rescue can be applied here to operations in the Helgoland port area.

By means of the reference to the HSC Code 2000 in Chapter 1 Regulation 3.5, for example, the specifications concerning a quality management system from the ISM Code apply. Otherwise, these safety-promoting requirements would not apply to passenger ships in the Helgoland port area, as Regulation (EC) No 336/2006 provides for the application of the ISM Code only to Class A and Class B passenger ships, i.e. not to use in a coastal sea area with a low significant wave height that is relevant here.

With regard to ship equipment for life-saving appliances, fire safety and escape routes (Chapter 2: Regulations 4, 7 and 8) the requirements of the HSC Code 2000 are adopted to a limited degree and adapted, especially in view of the smaller size of craft used in Helgoland and the short journey distances. By way of an addition, a shore-based rescue concept is applied that is traditionally used on Helgoland and has proved successful. The local conditions allow such a rescue concept.

The specific characteristics of the 'Helgoland' area of operation and the size of the craft used in that area also justify, for individual requirements of Chapter 2 for passenger ships, deviation from the HSC Code 2000, for instance with regard to buoyancy, stability and subdivision (Regulation 2), structures (Regulation 3), course and steering facilities (Regulation 5), machinery (Regulation 9), electrical installations (Regulation 12), radio communication (Regulation 14), operating compartment layout (Regulation 15), stabilisation systems (Regulation 16) and survey and maintenance (Regulation 19). The brevity of the journey is an additional reason for the deviations in the case of anchoring, towing and berthing (Regulation 6), handling, controllability and performance (Regulation 17) and operational requirements (Regulation 18). Since the craft are passenger ships of HSC category B craft and because of their size there are not two control stations, the requirements

of the HSC Code 2000 on remote controls, alarms and safety devices are not adopted, including with regard to the restricted navigation area in the sheltered port area (Regulation 11).

The reference in Chapter 2 Regulation 18 to Regulation 18.2.5.1 of the HSC Code 2000 is necessary in order to impose an obligation to count persons on board also for passenger ships in the Helgoland port area. This is because such ships operating exclusively in a port area are excluded from Directive 98/41/EC on the registration of persons sailing on board passenger ships, under Article 3(1) of that Directive.

#### **Letter (c)**

In Part 3 of Annex 1a SchSV on the safety requirements for the construction and equipment of traditional vessels, only the transitional provision of Regulation 13.3. in Chapter 1 has been amended. The background to this is the introduction of new standards by the [Ordinance amending the ship safety rules on the construction and equipment of traditional ships and other ships which are not subject to international ship safety rules of 7 March 2018 \(BGBl. I p. 237\)](#). During and after the COVID-19 pandemic, conditions for implementing the new standards became more difficult. On the one hand, traditional vessels could scarcely be used, and on the other hand implementation in the shipyards or with the help of specialists was difficult. The extension of the transitional periods strikes a balance between the difficult implementation of the new requirements and the interest in the uninterrupted continuation of traditional vessel operations.

The generous transitional arrangements will be limited to renewal requests until 2024. The provision ensures that the transitional arrangements do not have unlimited effect in the case of expired ship safety certificates.

#### **Letter (d)**

The scope of amendments to Part 6 of Annex 1a SchSV requires the redrafting of this Part. The focus of the new rules is in Chapter 3, which includes a complete revision of the requirements for small craft, including regulation for the first time specifically for commercial passenger transport using small craft (3). Chapter 2 is subject to only a few specific changes (2). A Regulation is added to Chapter 4 on special craft, but remains otherwise unchanged (4). The current Chapter 5 with the regulations on workboats is repealed (5). This leads to a renumbering of the two subsequent chapters. The current Chapter 6 on offshore service vessels needs to be reworded as a result of a complete overhaul of the safety requirements for these craft (6). The current Chapter 7, with unchanged wording, becomes the new Chapter 6. Chapter 1 is also to be adapted accordingly to all these new rules and to the restructuring (1).

##### **(1) Amendments to Chapter 1**

Regulation 1.2 continues to list the vessels that are excluded from the scope of Part 6. In Regulation 1.2.1, the term 'Federal Navy' is replaced by 'Federal Armed Forces' in order to adapt the wording to the parallel exemption provisions in the SeeAufgG, SchSG and in Part 1 of Annex 1a SchSV. This exempts all vessels of the Federal Armed Forces from the safety requirements for cargo ships, regardless of their assignment to a particular branch of the military. Vessels belonging to the Federal Armed Forces and the German Sea Rescue Society are already excluded from the scope of the SchSV by the second sentence of § 1(1) SchSV in conjunction with § 2(3) of the Ship Safety Act. Therefore, Regulation 1.2.1 has only a clarifying function.

Regulation 1.2.5 still contains the categorical exclusion of non-commercial small craft when used for sports and leisure purposes. As they are not subject to the safety requirements laid down in Part 6 of Annex 1a SchSV, they are not subject to the survey and certificate obligation of the SchSV, but to the specific technical provisions of recreational

shipping law. However, the name of the privileged use is changed: The term 'sports and leisure purposes' replaces the term 'sports or pleasure purposes'. In this respect, the original wording of the Regulation, as it was before the 19th Ship Safety Adaptation Ordinance of 3 March 2020 (BGBl. I, p. 412), is being restored in order to avoid misunderstandings in light of Directive 2013/53/EU which is applicable to recreational craft. However, no accompanying change to the meaning is intended by the legislator. This is now ensured by means of a legal definition of the new term 'sports and leisure purposes' in Regulation 2.1.17.

According to that provision, use for sports and leisure purposes exists where a vessel is used privately for water sports activities, for transport, for pleasure or for enjoyment, but not in the pursuit of non-economic purposes. This means that the term 'sports and leisure' in Regulation 1.2.5 is now expressly based on a narrow understanding: This does not mean just any form of self-development in a non-occupational context. In addition to the use of the small craft as a purely, privately used means of transport and sports equipment – for example for sailing or motor sports – use for pleasure and enjoyment is characterised by the fact that it satisfies the need for distraction and relaxation alone. In other words, sports and leisure purposes involve use for boat-related sporting activities or leisure activities of persons on board, such as sailing, motorboating, fishing or diving. On the other hand, sports and leisure purposes do not exist, in particular, in the case of commercial journeys where the focus is on passenger transport and journeys with touristic motives, such as port tours, birthday or marriage trips.

In contrast to the pursuit of non-economic purposes, use for sports and leisure purposes is more ship-related: The focus is on the vessel itself, its navigational control and locomotion. Use of the vessel is therefore generally an end in itself. The vessel is therefore not intended to be used as a mere tool or aid to achieve a non-economic purpose outside the vessel, even though this may also be pursued outside employment during non-working periods. The use of the craft for purely communicative, cultural, political, religious, scientific, artistic, charitable, humanitarian, non-profit-making or other use comparable to self-development is therefore not covered, merely because of its non-economic purpose, by the term 'sports and leisure purposes' which have already been categorically excluded from the scope of the SchSV.

Limiting the scope of the safety requirements for small craft to a narrow understanding of sports and leisure use is necessary in view of the protective purposes of the SchSV: The purpose of the SchSV is to protect persons on board, shipping and shipping facilities, including other water users, as well as health, the coast and the environment, while at the same time fulfilling the obligations of the Federal Republic of Germany under international law as a flag State under Article 94 of the United Nations Convention on the Law of the Sea. The operation of a ship is particularly likely to endanger third parties or their property. Because of this, the exemption from the regular survey and certification requirement under the SchSV can only be justified if the risk profile of a ship is typically significantly lower because of the purpose of its operation than can be assumed in the case of common use of small craft. This is the case only if used for sport, locomotion, pleasure and movement: As opposed to other uses, this kind of use is generally carried out over limited periods of time and often in geographically limited or known sea areas. At most, it involves a narrow, familiar group of people and, as in the case of recreational craft, the maintenance of the watercraft is in the user's own interest. Driving the craft is also at the discretion of the individual in such cases, and it can therefore be generally assumed that dangerous situations will be avoided for these uses alone, e.g. by staying in the port in the event of developing bad weather. Exemption from ship safety law is only possible for such use.

The same conclusion regarding risk is made by European Commission with regard to the term 'sports and leisure purposes', which describes the scope of Directive 2013/53/EU on recreational craft and personal watercraft. According to the Commission, use for 'sports and leisure purposes' which is to be determined by the manufacturer in the course of a

risk analysis procedure relates only to a non-commercial private activity carried out during leisure, which is carried out for enjoyment outside work. The Commission expressly does not regard as a private sports and leisure activity the pursuit of non-economic purposes such as collecting litter on waterways, excursions with disadvantaged children, whale watching or carrying out observation and rescue missions for humanitarian purposes. This narrow understanding of sports and leisure purposes, focussing on pleasure, relaxation and enjoyment, can be seen in the English-language version of the Directive, which uses the term 'recreational craft'. The definition in Regulation 2.1.17 thus serves to distinguish German maritime safety law for small craft, which is based on professional shipping, from the law on recreational shipping, which is particularly shaped by EU law: A common understanding of 'sports and leisure purposes' is to be established for this purpose. The return to this term, which the 19th Ship Safety Adaptation Ordinance replaced with 'sports or pleasure purposes' is also intended to make this conceptually clearer and to make it easier to distinguish from recreational shipping law. The aim is to enable those affected to better identify which rules their vessel's type of use falls under.

According to Regulation 1.2.5, the use may not be on a commercial basis for the small craft to be excluded from the obligation to survey and certificate obligation. This sets out a second condition, which must be met cumulatively: Commercial journeys do not constitute use for sports and leisure purposes. The definition of commercial use can now be found in Regulation 2.1.16. Accordingly, commercial use exists where the carriage of persons or cargo or the provision of services for remuneration with a certain degree of regularity is offered publicly to an undefined group of persons – irrespective of any assessment under tax law. There is no need for any profit-making purpose. A certain degree of regularity can be assumed if the use is not merely very isolated and remunerated on rare occasions for a small amount. Any economic activity with the ship that is meant to be lasting and is undertaken with an intention of repetition is therefore subject to the certificate and survey obligation of the SchSV.

In comparison with the current wording, the adverb 'exclusively' has been deleted and thus, in order to avoid difficulties of interpretation, the scope of the purpose being pursued has not been specified. However, for pursuit of 'sports and leisure' purposes, it is necessary that the craft is not used specifically, but only in exceptional cases for another use and overall only to a marginal proportion. The condition is that, when viewed as a whole, this other use must have a negligible impact in relation to the sports and leisure purposes pursued on a regular basis and must be of insignificant importance; the use for sports and leisure purposes is to predominate. The situation is different, for example, where the craft participate in non-economic actions on a regular basis or beyond marginal use. In such cases, the craft would then, on a case-by-case basis, need a safety certificate as a small craft in accordance with the higher safety requirements of the SchSV. This delimitation is necessary in order to prevent circumvention attempts and, in particular, in view of the different risk assessment. On the other hand, for reasons of proportionality, the deletion of the adverb 'exclusively' means that the overall negligible use of vessels carried out on an exceptional basis for a non-economic purpose remains possible and such an individual case should not automatically lead to the certificate obligation. For example, recreational boat masters should continue to be able to occasionally report complementary marine observations as part of community science projects, using their recreational craft for a small proportion of the time.

The second sentence of Regulation 1.2.5 makes it clear that the craft categorically exempted from the SchSV are subject to the requirements for recreational craft; they are then considered recreational craft, not small craft. If, for example, the original intended use of a craft previously subject to the SchSV as a small craft changes in such a way that, because of its use for sports and leisure purposes, it is now covered by the EU Recreational Craft Directive, an appropriate conformity procedure must be carried out in accordance with the second sentence of § 15(3) of the Ordinance on recreational craft and personal watercraft. In addition, recreational and leisure craft exempted from the require-



ments of Annex 1a SchSV shall comply with the requirements of the Maritime Recreational Craft Ordinance insofar as they fall within the scope of that Ordinance. The type of use excluded from the ship safety law of the SchSV by Regulation 1.2.5 is therefore not entirely unconditional, as those addressed by the legislation are reminded here in order to avoid misinterpretations.

For the first time, the new Regulation 1.2.6 expressly exempts small craft used for non-economic purposes from the safety requirements of Part 6 of Annex 1a SchSV. They are therefore not, for the time being, subject to any survey and certificate obligation. The specific exception covers in particular organisations that carry out, on behalf of the State, the State's mission of life rescue and civil protection in German coastal waters (DLRG, DRC and ASB). On the other hand, this exemption also covers small craft of non-profit associations which are intended to be used primarily in the field of privately organised rescue at sea, especially in the Mediterranean Sea. Regulation 1.2.6 complements Rule 1.2.5, as use for non-economic purposes, and in particular organised rescue at sea, is not covered by the sports and leisure purposes excluded therein: Such use is specifically targeted to emergency situations and therefore presents a higher safety risk: In particular, in the case of privately organised rescue missions in the Mediterranean, the helpers, who are often volunteers, and the rescued persons on board these vessels are exposed to risks comparable to those of professional seafarers: They operate on the high sea for an extended period of time at a distance from rescue facilities, including in difficult weather conditions, and pick up a large number of vulnerable, traumatised and incapacitated persons until the boat is full. There is a risk of safety-related incidents escalating quickly. Therefore, marine technology and equipment must ensure that such situations can be prevented from the outset and, if not, managed as effectively as possible by the crew. In accordance with § 3 SchSG and § 2 SchSV, the operator must take this into account with appropriate safety precautions. In the context of the maritime safety partnership (§ 3 SchSV), the operator is supported by the German flag State administration in this regard: The BMDV publishes in the Transport Gazette safety recommendations to address the special circumstances and dangers of such rescue missions. In the light of relevant initiatives at EU level, there should be no regulatory standardisation of mandatory safety requirements by means of ordinances, as these should not be pre-empted. A uniform Europe-wide approach to the safety requirements applicable to these operations is preferable.

Given the responsibility that operators of small craft for non-economic purposes and in particular privately organised maritime rescue missions have for their crews, their additional helpers and not least the rescued persons, the BMDV strongly advises voluntary compliance with the requirements applicable to small craft and application for the appropriate certificates and confirmations under § 9(3) subparagraph 2 SchSV or otherwise taking into account the safety recommendations published by the BMDV.

For the first time, Regulation 1.2.8 now provides for an exemption from the scope of Part 6 for cargo ships under 3.60 metres in length. This introduces a general minimum length limit, which has, to date, been hidden less systematically in the old rules on small craft and workboats in the previous Chapters 3 and 5. The current minimum length of small craft of 8 metres is being reduced on the basis of safety recommendation 7.1 in inspection report 258/18 of the Federal Bureau for Maritime Casualty Investigation (BSU) on the capsizing of the GEO PROFILER surveying boat in the Wadden Sea off Büsum on 17 July 2018. By reducing the minimum length, a safety gap is now being closed, as the use of vessels under 8 metres in length has not been subject to any safety requirements to date. Such small craft are often, however, used for commercial activities, such as surveying. However, the fact that BG Verkehr has no power to issue a safety certificate to craft under 8 metres in length is described by BSU in the above-mentioned investigation report as a systemic deficiency which weakens the safety partnership between the authorities and operators provided for by the SchSG. This identified shortcoming is all the more serious in view of the ever-increasing commercial traffic between the mainland and the German North Sea islands with small craft under 8 metres. 'Water taxis' in particular serve island

tourists, islanders and seasonal staff in an ever increasing number. However, they are also used in the Baltic Sea, where they connect more distant marinas with city centres, as is common in Neustadt/Holstein. This gives rise to the great need for regulation: This is because safety concerns relating to the commercial use of small craft under 8 metres in length must be taken into account and, in particular, in the case of commercial passenger transport, which the BSU also recommends (summary investigation report 218/21). The new minimum length is also intended to harmonise with Part 5 of Annex 1a SchSV, which also sets 3.60 metres as a lower limit. Such a minimum length is necessary, as otherwise rowing boats or other craft not relevant to maritime transport would also be subject to certification.

The new Regulation 1.2.9 excludes from the scope of Part 6 of Annex 1a SchSV those watercraft which are not already covered by the EU Recreational Craft Directive. This is because they are not already subject to any product safety requirements under § 1(2) subparagraph 1 of the Ordinance on recreational craft and personal watercraft – 10th Product Safety Ordinance (ProdSV)) This concerns, for example, canoes and kayaks, which are designed to be propelled solely by muscle power.

Regulation 1.2.10 maintains the current legal situation with regard to sports training: Sports training craft with a hull length under 8 metres remain exempt from the survey and certification obligation and are not subject to the safety requirements. The term 'sports training craft' is defined in the new Regulation 2.1.29 and 'hull length' is defined in the new Regulation 2.1.30.

Finally, due to the repealing of Chapter 5 of Part 6 of Annex 1a SchSV, there is no longer a need for the exemption for workboats under 8 metres in length in the current Regulation 1.2.7.

Regulation 2 still contains the definitions. New definitions for passenger ship and passenger are inserted in Regulation 2.1.2 and 2.1.3. These correspond to those set out in Part 1 of Annex 1a SchSV and thus also to their use in international and European requirements. Both definitions are necessary to understand the previous definition of 'cargo ship' in Regulation 2.1.1.

Regulation 2.1.4 replaces the previous maximum gross tonnage (GT) for small craft with a maximum length of 24 metres. In terms of size, ships of 100 GT and above are mainly vessels of 24 metres in length and over. The purpose of changing the measurement basis from a dimensionless volume to a length measurement is to bring it into line with international limits for small craft. For example, ISO standards are laid down for vessels under 24 metres. In view of the above, it cannot be justified for a vessel of more than 100 GT but under 24 metres in length to be allowed not to subject to the international standard for small craft. The International Convention on Load Lines also contains a length measurement for delimitation. Its use also means alignment with Part 5 of Annex 1a SchSV, thus ensuring the uniformity of German maritime safety law. The use of a length measurement is therefore preferable for the ship-related safety requirements for small craft, even if the Ordinance on Safe Manning is linked to GT. Coordination between qualification law and ship safety law is not absolutely necessary in this respect because of the different regulatory purposes.

Regulation 2.1.9 aligns the definition of the term 'offshore service personnel' with that in Resolution MSC.521(106) of 10 November 2022.

Regulation 2.1.10 is supplemented to include a reference to the IMO Maritime Safety Committee Resolution MSC.418 (97) (VkBl. 2017 p. 208). This will allow additional safety training courses to be recognised and expand the available range or choice of providers.

The definitions in Regulations 2.1.12 and 2.1.13 for 'workboats' and 'close to the coast' are deleted, as they are no longer subject to any specific regulation in the new version of Part 6 of Annex 1a SchSV.

Regulation 2.1.18 defines for the first time the term 'commercial passenger transport', which is the new subject of Chapter 3 of Part 6 of Annex 1a SchSV. The definition is used to make a distinction from other carriage of passengers by small craft. Conceivable here, for example, is the carriage of non-crew staff of the shipping company. However, a maximum of 12 passengers can be carried by small craft, as otherwise the vessel used is no longer a cargo ship within the meaning of Regulation 2.1.1, but a passenger ship in accordance with Regulation 2.1.2, to which the specific safety requirements of the 'passenger ship' category apply and which in this case would have to be complied with under § 6(2) SchSV. In accordance with international law, persons rescued in distress at sea are not considered passengers in this context.

In addition, the amendment seeks to make a distinction from recreational craft (see also the explanatory notes on Regulation 1.2.5).

The new provision in Regulation 2.1.17 on the term 'sports and leisure purposes' also serves to make a distinction from the law of recreational craft and complements Regulation 1.2.5 (see the explanatory notes in that regard).

Regulation 2.1.19 determines the delimitation in the individual provisions of Part 6 by the length of the craft. There are different types of length determination for vessels, so clarification is necessary. The international rules of the 1969 London Tonnage Measurement Convention (BGBl. II 1975, p. 67) are used worldwide for the uniform measurement of commercial vessels. They are also normally used by BSH for this type of use. The current definition in Regulation 1.1 in Chapter 3 of Part 6 of Annex 1a SchSV lacks such clarity.

Regulations 2.1.25, 2.1.26 and 2.1.27 in Chapter 1 on decked design are newly added to the list of definitions for Part 6 of Annex 1a SchSV. These are needed for the provisions on commercial passenger transport by small craft in Chapter 3.

The new Regulation 2.1.28 now defines the term 'ship's boat' used in Chapter 1. This includes, for example, zodiacs, dinghies and similar watercraft which are not regularly used for work in immediate proximity to the main or accompanying vessel. Immediate proximity exists in the range of sight, but not more than 2 nautical miles from the mother vessel.

The new Regulation 2.1.29 defines the term 'sports training craft' in accordance with the Maritime Recreational Craft Ordinance. Chapter 3 contains specific requirements for these. For the meaning of the term, see the explanatory notes for Article 2(2)(3)(d).

For hull length, the new Regulation 2.1.30 refers to the length definition in accordance with the current version of the relevant international industry standard for 'small watercraft', as was the case for traditional ships with a survey length under 24 metres in accordance with Regulation 2.1.5 of Chapter 1 of Part 3 of Annex 1a SchSV, and applied to small craft under the old Regulation 1.1 in Chapter 3 of Part 6 of Annex 1a SchSV. The hull length is relevant for the subdivision and stability of small craft in the new Regulation 4 of the revised Chapter 3 of Part 6 of Annex 1a SchSV.

The inclusion of the LSA Code in Regulation 2.2.7 is also new. Reference is made to it several times in Chapter 2 of Part 6 of Annex 1a SchSV.

In Regulation 2.2.15, the official short name of the Tenth Ordinance Implementing the Product Safety Act has been added for greater user-friendliness. This is used by the new Regulation 1.2.5.

The survey and certification obligation for workboats in Regulation 4.2 is now replaced by such a regulation for all small craft. The inspection cycles in the new Regulation 4.2.1(b) and (c) for interim and renewal surveys have been reproduced here, as these have proven to be effective in practice, including in terms of the number of accidents. They differ from the regulations otherwise applicable to cargo ships under SOLAS and HSSC to the benefit of owners of small craft: Instead of annual surveys, once the survey for entry into service has been carried out, an interim survey is only required between the second and third years before the date of expiry of the safety certificate, if the certificate has been issued for a period of more than three years. This is appropriate because of the small size and the associated lower technical complexity of small craft. At the same time, it aligns the survey obligation with practice in Denmark and the Netherlands. For owners of small craft, this means a considerable reduction in the cost and time required for the prescribed official inspection. A corresponding difference in treatment with respect to day-trip boats, which have to renew their certificate annually (Regulation 4.2.e in Part 1 of Annex 1a SchSV) is justified on the basis of a risk-based approach: Day-trip boats are passenger ships and carry up to 50 persons. The inspection cycle applicable to them is also due to the grandfathering of rights for these vessels approved before 2000 and thus to an inherited vessel type. Finally, Regulation 4.2.1(d) lays down a separate survey frequency for radio equipment. An annual survey is required here because of the particularly sensitive antennas and the electromagnetic influences to which the radio equipment is exposed during this period. This is also in line with the international standard under SOLAS. Pursuant to § 5(1) subparagraph 1 SeeAufgG, BSH is responsible for inspecting the radio equipment. Regulation 4.2.2 provides for an exception to this for vessels under 6 metres in length. In accordance with Regulation 9.1.3 of Chapter 3 of Part 6 of Annex 1a SchSV (small craft), these require only a portable VHF radiotelephone apparatus (transmitter/receiver) for survival craft with back-up battery. Since these devices are very robust, durable and reliable compared to conventional radio equipment, an inspection is sufficient as part of the complete survey of the vessel to be carried out by BG Verkehr pursuant to Regulation 4.2.1(a) to (c). There is no need for a separate, annual inspection beyond that. The costs and time required for official controls of small craft under 6 metres in length are therefore reduced.

The new Regulation 3.10 replaces the current Regulation 4.3 on ship's boats and their launching appliances. The old Regulation 4.3 referred to Chapter III Regulation 20 of the SOLAS Convention with regard to inspection. The requirements for lifeboats in said provision have now been extended, in particular to include rules on annual inspections by approved maintenance companies. Instead, ship's boats belonging to cargo ships are now not to be subject to any certification or specific requirements. However, in accordance with its power under § 11(1) subparagraph 1 SchSV, BG Verkehr may prohibit use to avert an imminent danger to a legal interest referred to therein.

In order to take account of the special need for monitoring under ship safety law for small craft with rigging (sailing craft), the new Regulation 4.2.3 reproduces the rules on checking the condition and functioning of rigging and, in particular, wooden masts in traditional ship-ping (Regulation 8.5 in Chapter 1 of Part 3 of Annex 1a SchSV) without any change in wording.

The new Regulation 4.2.4 grants BG Verkehr the power to set shorter deadlines and further interim surveys by way of derogation from Regulation 4.2.1. Special circumstances can thereby be taken into account, given the very different construction and equipment characteristics of vessels used as small craft, in particular those made of wood.

Regulation 4.3 requires the initial and renewal surveys to be carried out on in dry dock. This is in line with the international standard set out in Regulation 10 of Chapter I of the Annex to the SOLAS Convention and is already contained in Regulation 8.4 in Chapter 1 of Part 3 of Annex 1a SchSV for traditional ships. Dry docking allows careful inspection of the hull, in particular of the shell, welds, inlets and outlets. The interim survey, on the other

hand, is to be carried out in the water, since this is needed to verify compliance with certain requirements, such as the inspection of the seacocks.

Regulations 5.1 and 5.2 are newly added to Chapter 1 of Part 6 of Annex 1a SchSV. Compliance with existing class rules required for small craft in Chapter 3 can be fully demonstrated by the class certificate. The references to Directive 2013/53/EU in Chapter 3, which are necessary to include industry standards for formal legal reasons, will also make it possible in future to check compliance with industry standards by means of conformity assessment. This reduces the administrative burden on shipyards and shipowners. Regulation 5.2 third sentence also specifies the inspection modules to be demonstrated. These guarantee the monitoring of compliance with safety standards by independent inspectors and ensure an appropriate quality level. Inspection module B corresponds to type examination, G and H to unit examination. Inspection modules D, E and F describe the exhaust emissions inspection. However, the submission of a declaration of conformity in accordance with Regulation 5.2 does not replace the survey and certification referred to in Regulation 4. Rather, it provides a rebuttable presumption of compliance with the safety requirements laid down in Chapter 3. If, for example, a subsequent alteration is not taken into account by the basis of assessment for the declaration of conformity, compliance with safety requirements must be demonstrated by other means, e.g. by reassessment of conformity or by a classification society. Many industry standards, however, have some room for manoeuvre, so that, for example, a vessel's increase in weight might still be covered by them.

A new Regulation 6 lays down how existing rights are to be dealt with. Regulation 6.1 grants grandfathering of rights to ships that already have certificates. Therefore, the safety requirements currently in force remain applicable to them (Regulation 6.2). With regard to the different size determinations in the old and new version, this leads to the following when describing the scope of Chapter 3 Part 6 Annex 1a SchSV (small craft): If the ship has a GT of less than 100 but is at least 24 metres in length, it must continue to meet the requirements of the old version of Chapter 3 in order to obtain a renewal of its certificate. If the ship has a GT of more than 100 and is less than 24 metres, the certificate may be renewed in accordance with both the requirements currently in force and those of the new version of Chapter 3. This avoids regulatory uncertainty for existing vessels as a result of redefining the size of small craft. However, the new survey interval introduced by the present amending Ordinance applies in both cases, as this is laid down in Chapter 1, but the grandfathering of rights under Regulation 6.2 relates only to Regulation 3 and thus to the ship-related requirements of Chapters 2 and 3 of Part 6 of Annex 1a SchSV. Thus, existing small craft also benefit from the extension of the survey interval. No grandfathering of rights is granted to ships which were not previously subject to a certification requirement (under 8 metres in length). Thus, the new ship-related requirements in Chapters 2 and 3 only concern new vessels and vessels under 8 metres in length. Only the latter will require more costly retrofitting. However, this is also necessary. For vessels not used for commercial passenger transport, e.g. surveying vessels, a critical safety gap is being closed. The BSU accident investigation report on the capsizing of the GEO PROFILER surveying boat has shown that there are workplaces with a significantly higher than average risk profile, which have not been subject to any safety rules to date. GEO PROFILER was a total loss, the seafarers were in acute danger and had to be rescued. In a similar accident, one seafarer died in Denmark. The great need for safety standards for small craft is once again significantly increased when it comes to commercial passenger transport. As a rule, up to 12 passengers are unknowingly exposed to an increased risk. The BSU sees water taxis as fundamentally posing a greater risk to humans and the environment because of the speeds they operate at, and points out that the shallow water areas present in the tidal flats, which are conservation areas, further increase the risk due to possible grounding (summary investigation report 218/21). In view of the severity of the dangers involved, it is not appropriate to continue having no risk reduction measures at all, despite their growing demand and the planned extension of their area of operation to

the coastal region. Undue hardship for owners of existing small craft under 8 metres is avoided by the transitional provision in Regulation 12 of Chapter 3.

The new Regulation 6.3 addresses alterations, repairs, refurbishments, additions and acquisitions. Regulation 3 applies to these, *mutatis mutandis*. In the case of major measures of the kind mentioned above, Regulation 3 shall apply to the whole vessel. Major alterations exist, for example, if there is intervention in the ship's structure or essential components are modified.

The new Regulation 7 on ancillary provisions adds clarification to the existing Regulation 5.1 that a safety certificate can be issued with conditions and restrictions attached.

## (2) Amendments to Chapter 2

For ships subject to the requirements of Regulations 3.6 and 3.7, the lower limit is increased from 250 GT to 300. This new value corresponds to the limit in Regulations 3.1 and 3.5. This serves to ensure uniformity among the subjects governed by German ship safety law. In particular, the increase in the GT means that, for example, port tugs with a gross tonnage between 250 and 300 crewed by a maximum of 3 persons are no longer required to be fitted with 2 firefighters' outfits. This would not make sense because of the low number of crew: A basic principle of firefighting is that two persons with protective equipment, including compressed air breathing apparatus, approach the seat of the fire and a third person keeps secure contact with these and safeguards them via a line. This is not feasible for a 3-person crew, as the bridge must remain manned for navigating, radio communication and coordination with the approaching rescue team. Considerations concerning fire extinction also explain why this Regulation does not refer to the variable number of crew members, but rather to the fixed size of the vessel by means of GT: If a ship has few compartments, smoke quickly spreads throughout, so the ship needs to be abandoned rather than allowing time for putting on compressed air breathing apparatus. Containing the fire by firefighting can only be considered feasible in larger ships with more subdivisions. Another reason for using the size of the vessel rather than the number of crew members is the inability to store bulky compressed air breathing apparatus.

Regulation 3.10 on the requirements for the liquefied gas system has been clarified and updated by reference to the latest technical regulations in this area: The current version of DIN EN ISO 10239 'Small craft – Liquid petroleum gas (LPG) systems' has now been published and the DVGW rules have now been adapted to them. This DIN standard applies to the installation and testing of liquefied petroleum gas systems on small watercraft up to 24 m hull length. DVGW worksheet G 608 regulates the operation and other testing requirements and provides guidance on how to meet the requirements of DIN EN ISO 10239. In particular, the DVGW worksheet regulates the periodic testing of the gas system; the DIN standard only regulates the one-off test before being put into service.

In the provisions of Regulation 4, the references to the LSA Code have been revised as editorial changes. Regulation 4.1(a) clarifies that the life-raft on each side of the ship must be able to accommodate the total number of persons on board. Regulation 4.7 now allows an automatically inflatable life-raft instead of a rescue boat, in derogation from the old version. This takes account of the lower number of crew members in tidal flat shipping on the Wadden Sea, which makes it difficult to manage a rescue boat in a safe manner. Vessels of less than 300 GT also have little space for such equipment. The purpose of the regulatory change is therefore to ensure that the equipment obligation is proportionate, while maintaining the level of safety. As regards equipment with lifebuoys, the requirement for cargo ships in tidal flat shipping on the Wadden Sea is being aligned with general Regulation 4.4.

A new Regulation 5.5 is being inserted after Regulation 5.4, containing requirements for the use of lifting equipment. These are the provisions of current Regulation 6 of Chapter 6

of Part 6 of Annex 1a SchSV. Their new positioning corrects an editorial error. This is because the regulation primarily concerns cargo ships which are not offshore service vessels. The second sentence takes into account Regulation 3-1 of Chapter II-1 SOLAS, which is to be applied by Regulation 1.1 of Chapter 1, Part 6, Annex 1a SchSV. According to that provision, a ship must also comply with the requirements of the recognised organisation whose monitoring it is subject to.

### (3) Amendments to Chapter 3

Chapter 3 completely redrafts the safety requirements for small craft. For the first time, commercial passenger transport by small craft is also specifically regulated, as the increasing use of craft, originally placed on the market as recreational craft, in commercial island ferry services has become apparent, especially between the mainland and the Lower Saxony North Sea islands. The vessels also sometimes operate at high speeds. They also use a larger tidal window and other routes, so that their movements are expanding, in terms of both space and time, in this particularly protected area. A legal framework is now to be established for this increased traffic with small craft in order to ensure safety at sea and the directly related occupational health and safety for these vessels, as well as to take account of environmental protection, all of which is in line with the objective of § 1 SchSV. With regard to the latter objective, it is particularly important to prevent risks to nature and landscape in the sensitive Wadden Sea area.

Regulation 1 defines the scope of Chapter 3 for clarification purposes. The description of the scope of the whole Part 6 of Annex SchSV in Chapter 1 Regulation 1, and the definitions in Chapter 1 Regulation 2 are to be read with this. It follows from this combined reading that Chapter 3 lays down regulations only for ships which are cargo ships, as distinct from passenger ships (carriage of more than 12 passengers) with a length of at least 3.60 metres and less than 24 metres, irrespective of the point in time at which their keel was laid. Due to the specific rules for offshore service vessels now laid down in the new Chapter 5, these are excluded from the scope of Chapter 3. Regulation 2 sets out the basic regime of the ship safety requirements laid down for small craft in Chapter 3: Unless other, more specific requirements are laid down for small craft in the subsequent regulations of Chapter 3, small craft must alternatively comply with the requirements of a class or the essential requirements set out in Annex I to Directive 2013/53/EU on recreational craft. In the latter case, the presumption of conformity provided for in Article 14 of Directive 2013/53/EU shall apply: Conformity with Annex I is presumed if the ship complies with European standards adopted on the basis of a harmonisation request from the European Commission in relation to Directive 2013/53/EU on recreational craft (harmonised standards within the meaning of Article 2(1)(c) of Regulation (EU) No 1025/2012 on European standardisation). The references of those harmonised standards are published in the Official Journal of the European Union with express reference to Directive 2013/53/EU. Compliance of the small craft with the harmonised standards is demonstrated by the submission of a declaration of conformity in accordance with Regulation 5.2 of Chapter 1 of Part 6 of Annex 1a SchSV. The inspection criteria for determining compliance with the safety requirements applicable to small craft are to be chosen uniformly for each small craft: All the technical safety standards are to be based on either the relevant classification rules or the European standards for recreational craft, unless more specific requirements are laid down in Chapter 3. A combination of classification rules and European standards as the inspection criteria – differentiated for each technical issue – is not to be allowed.

The rationale behind the principle laid down in Regulation 2 that, in the absence of specific requirements in Chapter 3, classification rules or European standards for recreational craft have to be used, is the decision made by redrafting Chapter 3 to follow international practice and to use existing international industrial standards for small craft. The existing rules replaced by the new version of Chapter 3 are inherited standards that have become obsolete: They do not reflect the state of the art or international practice. For these old regulations, no material force of law was originally provided. Instead, they originated from

internal directives of BG Verkehr not requiring an explanatory statement and were not tested for constitutionality and therefore were not the result of a Basic Law-based balancing exercise taking the proportionality principle into account.

The first option for small craft to comply with the ship safety standard applicable to them is, in accordance with Regulation 2.1(a), compliance with the specific requirements of Chapter 3 and, otherwise, with the relevant classification rules of a recognised classification society. This option is particularly suitable for special purpose uses.

The second option can be found in Regulation 2.1(b). This relies on existing industry standards specifically developed for small craft, which, however, cannot be referred to individually for formal legal reasons. However, they shall not apply to the presumption of conformity of Article 14 of Directive 2013/53/EU, meaning that the safety requirements for small craft are brought into line with international practice in shipbuilding for small craft (under 24 metres). Classification societies also rely on these industry standards in their regulations, insofar as they have them at all for small craft. The conformity assessment system underlying the Directive also makes it possible to use simplified but well-established verification of compliance with standards. In doing so, the level of safety is at least as high as in the classification societies' procedure for these ships. The requirements set out in Annex I to Directive 2013/53/EU and the related harmonised standards are particularly appropriate to meet the safety need in the use of small craft: Its aim is to achieve a high level of protection of human health and safety and protection of the environment (recital 52 of Directive 2013/53/EU). They were developed taking into account EU-wide accident statistics (recital 26 of Directive 2013/53/EU).

If a small craft is to be used for commercial passenger transport and the European standards for small craft are chosen as the applicable safety standard in addition to the specific requirements of Chapter 3, as permitted by Regulation 2.1(b), Regulation 2.2 requires that the requirements of design category B of Annex I to Directive 2013/53/EU apply for this type of use. Category B imposes specific requirements for the construction of ships in order to ensure safety, taking into account certain conditions in the operation of the craft. This is described in point 1 of Section A of Annex I to Directive 2013/53/EU: Design category B is based on the essential environmental conditions for maritime transport, namely wind force and significant wave height. The significant wave height is defined as the mean wave height of the upper third of the wave height distribution. Wind force and wave height are particularly demanding on the strength of vessels and influence their behaviour at sea. These impacts are reflected in the safety standards set out in Annex I to Directive 2013/53/EU and related harmonised standards. A vessel of design category B is designed for a wind force up to and including 8 Beaufort and for a significant wave height up to and including 4 metres, meaning that the requirements set out in Annex I to Directive 2013/53/EU, including the relevant European standards, provide a necessary but also sufficient safety standard with regard to the environmental conditions regularly prevailing in the normal navigational area of commercial passenger transport by small craft (island ferry traffic): For commercial passenger transport, Regulation 10.2 provides for a maximum distance of 6 nautical miles from the coastline. The vast majority of this sea area is considered a class D zone as defined in Article 4(1) and (2) of Directive 2009/45/EC on safety rules and standards for passenger ships. There the probability of a significant wave height exceeding 1.5 metres is less than 10 %. In a few cases, a class C zone is in the navigation area where the same probability is given for a significant wave height of 2.5 metres. The obligation of small craft engaged in commercial passenger transport to be design category B (designed for 4 metres) thus represents an average safety factor of 2 in the event of an unlikely scenario. The dangers of high wind force (design category B designed for 8 Beaufort) are also addressed by Regulations 10.4 and 10.6, inter alia, with a ban on operation in the event of a heavy onshore wind above 5 Beaufort.

Regulation 3 lays down design and construction requirements for all small craft, with Regulation 3.1 establishing a general principle for hull strength. This was already included in



current Regulation 1.2. Regulation 3.2 refers to the two alternative options under Regulation 2.1, so that the general principle for hull strength in Regulation 3.1 is satisfied if either the relevant classification rules on design and construction are met or the relevant requirements of Annex I to Directive 2013/53/EU are met including the relevant harmonised standards. Regulation 3.3 excludes reliance on the requirements of Annex I to Directive 2013/53/EU and the associated standards for small craft for the types of use listed therein. This is because these are special uses which are not covered by industry standards. Safe operation of these vessels can only be ensured by applying the relevant classification rules in accordance with Regulation 2.1(a).

For small craft engaged in commercial passenger transport, Regulation 3.4 lays down specific design and construction requirements. In accordance with the new definitions of Regulation 2.1.25, Regulation 2.1.26 and 2.1.27 in Chapter 1 of Part 6 of Annex 1a SchSV, the prohibition on open vessels in this use type excludes from commercial passenger transport vessels which are not at least partially decked, i.e. they do not have any watertight weather deck at all. This is because these would be particularly vulnerable to weather conditions, in a way that is critical for their safety. In the case of open vessels, water may also penetrate without restriction. In addition, protected seats must be provided for all persons to be transported meaning that all passengers are protected from weather conditions. This is to ensure their safety from being thrown overboard in bad weather, to protect them from injury in the event of heavy swell, and to protect their health in general. Small craft engaged in commercial passenger transport are designed as vessels of design category B (see Regulation 2.2) for a navigation area with a significant wave height of 4 metres, although higher waves may occur there. A wave height of 4 metres already exposes passengers to significant forces, which requires safe and secure seats.

Regulation 4.1 establishes a general principle for stability and subdivision of the hull for all small craft. It is fully covered by classification rules and industry standards. Therefore, again, as in Regulation 3.2, through Regulation 4.2 the technical safety standard of Regulation 4.1 will be deemed to be satisfied if the subdivision and stability of the small craft complies with the relevant classification rules or with the relevant requirements of Annex I to Directive 2013/53/EU, together with the corresponding harmonised standards. However, for at least one class it is known that its regulations do not include stability criteria. Therefore, the subsequent regulations lay down stability criteria for this case. These are in line with the criteria in industry standards and class regulations, which are ultimately based on the 2008 IMO International Code on Intact Stability. The requirement for a collision bulkhead arises from the International Convention on Load Lines (ICLL). However, the limits laid down therein are provided for vessels over 24 metres in length. As a result, the prescribed limits are impracticable for vessels under 24 metres in length. All small craft should fundamentally have a collision bulkhead. The details are only made more specific in this regard above a length of 15 metres in Regulation 4.2. In the case of a craft of 3.60 metres in length, on the other hand, a prescribed subdivision makes no sense, so the words 'in accordance with the generally accepted state of the art' have been included in Regulation 4.1. For vessels with hull lengths of more than 15 metres, the limits of the UK MCA Code are used in Regulation 4.2. The MCA Code is a national standard for vessels under 24 metres in length that are commercially operated and carry up to 12 passengers. It is also used by many other states. The definition of the term 'hull length' that is relevant to Rule 4.2 can be found in the new Regulation 2.1.30 in Chapter 1.

Regulation 5.1 establishes the general principle concerning the freeboard for all small craft. Part 7 of Annex 1a SchSV is therefore no longer applied to small craft. This is because Part 7 reflects the International Convention on Load Lines, which imposes requirements that are too high for small craft and is therefore not applied to them internationally. The technical safety standards on load lines are covered by relevant industry standards and classification rules and therefore these are again referred to via Regulation 5.2. In addition, these are subsequently supplemented, where this appears necessary in view of the purposes and areas of use of small craft. The new Regulation 5.3 requires, for example,

metal seacocks and plating openings in the case of proof of conformity under Directive 2013/53/EU (Regulation 2.1(b)). The Directive itself allows for several ISO standards, but to avoid leaks, the ISO standard with the higher requirements is to be applied. However, depending on the navigation area and type of use, these requirements are not sufficient and therefore BG Verkehr should be able to impose conditions and restrictions. The reason for the stricter requirements is that, when plastic is used, the risk of water intrusion due to material fatigue appears too high. Ball cocks which cannot be inspected in the installed state must not be more than 5 years old so that wear can be ruled out without a regular inspection. In the case of reliance on classification rules in accordance with Regulation 2.1(a), these are sufficient as they differentiate by use.

The new Regulation 5.4 sets the minimum coaming height and strength of portlights and windows. The height required here is lower than that laid down in the International Convention on Load Lines, but only vessels of 24 metres or more in length are regulated there. The value chosen in the present case takes this into account and is in line with the specification in Dutch law.

Regulation 5.5 addresses the risk of plexiglas hatches. The ingress of not insignificant quantities of water must be prevented here. Water ingress is significant if it threatens the stability of the ship.

Regulation 6 deals with fire safety for all small craft. Due to the diversity of fire safety requirements, no general principle can be formulated. The various elements of fire safety are therefore regulated individually. The general rules on fire safety for cargo ships in Chapter 2 are too far-reaching and therefore not appropriate for vessels of small craft size, in particular with regard to industry standards and classification rules. This is why Chapter 3 Regulation 6 lists the derogations from Chapter 2 Regulation 3. The very different fire safety rules of industry standards and class regulations are also harmonised.

The fire safety requirements in Regulations 6.1 and 6.2 essentially correspond to the existing rules of the old Regulations 2.1, 2.2 and 2.3. Instead of laying down further specifications in detail here – e.g. on the unobstructed passage of the emergency exit – reference is now made to the two alternative options of Regulation 2.1, so that for the matter covered by Regulations 6.1 and 6.2 – emergency exits and ventilation – the relevant classification rules or the corresponding requirements of Annex I to Directive 2013/53/EU together with the corresponding harmonised standards must be used.

Regulation 6.3 is a clarification concerning LPG systems with the content of Regulation 3.10 in Chapter 2, which, by virtue of Rule 3.2 in Chapter 1, also applies to small craft. LPG systems are not normally used on board cargo ships and therefore there is no international standard for them. However, they are present on small craft, in particular former recreational craft. The technical rules laid down in worksheet G 608 of the Deutscher Verein des Gas- und Wasserfaches e.V. must be used as the safety standard for operation and the inspection requirements, as is also the case for recreational craft under the Recreational Craft Ordinance. This has proved successful in practice. On the other hand, the installation of gas systems on watercraft and their initial inspection before entry into service is regulated by DIN EN ISO 10239 'Small craft – Liquefied petroleum gas (LPG) systems'. The periodic inspection is carried out by a certified expert in accordance with the rules set out in DVGW worksheet G608. These rules also stipulate a 2-year inspection cycle. The systems shall be marked accordingly by the manufacturer at the time of delivery.

Regulation 6.4 requires emergency stops for oil heating systems, engine room ventilation and fuel delivery pumps outside the rooms where these systems are located. These are necessary for ship safety and are already standard for recreational craft covered by Guidelines on safety rules for recreational craft used commercially for training purposes (VkBf. 1997 p. 572).

The new Regulation 6.5 prohibits the use of petrol for purposes other than the operation of outboard engines. The reason for this is the relatively higher fire hazard of this substance: Petrol is much more volatile than diesel and has a significantly lower flash point. The flammable range, i.e. the range of the concentrations of vapourised petrol in the air, is also significantly larger than for diesel or petrol (LPG). Other uses, such as for cooking appliances, some of which produce open flames, are therefore too dangerous.

Regulation 6.6 stipulates that fuel lines must be made of metal wherever possible from a shipbuilding perspective (this might not be the case directly on the engine due to vibrations). Where metal is the material used, the risk of breakage and leakage is much lower. In addition, the Regulation reduces the risk of fire on board.

The regulation on insulating the engine room in Regulation 6.7 is in line with the current Regulation 2.9 and reiterates the two alternative options of Regulation 2.1 for the material, meaning that the relevant classification rules or the corresponding requirements of Annex I to Directive 2013/53/EU, together with the related harmonised standards, are to be used. The insulation material is specified in accordance with the various wall materials. A reference to Regulation 2.1 with its two alternative options for the applicable safety standard is also made by Regulation 6.8 on flammability of equipment materials.

The maximum length of fire hoses laid down in Regulation 6.9 has been reduced by 5 metres compared to the current requirement in the old Regulation 2.17 and thus corresponds to the requirement already in force under Regulation 3.3 of Chapter 2, which is again laid down here for clarification purposes. Longer hoses are more likely to be hindering given the size of small craft, especially in light of their new minimum size (3.60 metres instead of 8). With regard to the number of hoses, Regulation 3.3 of Chapter 2 (cargo ships) with its specification of three fire hoses is not appropriate for smaller craft, and the second sentence therefore applies a separate rule.

Regulation 6.10 reproduces the provisions of current Regulation 2.18 without any change and further clarifies that a personal firefighter's outfit – e.g. helmet, boots, suit and breathing equipment – does not need to be carried. Given the small size of small craft, this equipment would not provide any safety benefit, including given the low number of crew members, since the minimum size of a fire-fighting team is 2 persons. Therefore, this exemption already exists in general for cargo ships under 300 GT in accordance with Regulation 3.6 of Chapter 2 of Part 6 of Annex 1a SchSV. Here, therefore, Regulation 6.10 merely provides clarification specifically for small craft.

The specifications for fire extinguishers and fire-extinguishing equipment finally set out in the table of Regulation 6.11 have been adapted to the latest technical knowledge and experience gained in practice. The carriage of suitable fire-fighting equipment is particularly appropriate in the light of the fact that, in accordance with Regulation 7.2, small craft may also be equipped with petrol engines as outboard engines. For such engines, a certain reserve of fuel is usually retained on board. Petrol is a Class 3 ADR dangerous good and is therefore highly flammable. The prescribed number of fire extinguishers is based on the size of the small craft. The equipment of the engine room depends on the kW of installed power there, which corresponds to EN ISO 9094:2017 (Small craft – Fire protection). For an engine room with an installed power greater than 120 kW, instead of 2 CO<sub>2</sub> fire extinguishers of 5 kg, an extinguishing system may alternatively be provided.

The new Regulation 6.12 requires small craft with electric propulsion systems to have an extinguishing capability that is suitable for the specific battery system. The suitability of the extinguishing facility depends on the type of battery and battery size.

Regulation 7 deals with machinery installations, which are currently dealt with in the old Regulation 7.2. However, unlike in that provision, for the devices referred to in the new Regulation 7.1, reference is made to relevant classification rules or to the corresponding

requirements of Annex I to Directive 2013/53/EU, together with the corresponding harmonised standards, by reference to Rule 2.1 with its two alternative options for the applicable safety standard.

The requirement for the 'diesel' engine type for the main propulsion engine in Regulation 7.2 reproduces the old Regulation 7.2.1.1 without any change, with the possibility of electric engines as the main propulsion now being added. The exclusion of petrol engines is due to the increased explosiveness of petrol and the more intensive use in commercial operation. It is also in line with the international ship safety standard: For example, the SOLAS Convention prohibits oil-based fuels with a flash point < 60 °C, which includes petrol.

The mandatory data plate for the main propulsion engine and its particulars in the new Regulation 7.3 is also reproduced from the current Regulation 7.2.1.2 without any change. The labelling is in line with what is normal for engines on the market and is necessary for inspection purposes.

A new Regulation 7.4 requires installed accumulators to be maintenance-free. Others could release gas, which would be dangerous in the absence of ventilation at the installation site.

The new Regulation 7.5 complements the technical safety standard for bilge pumps laid down in Regulation 7.1(b), additionally specifying their number and capacity. This has been adapted to the size of the vessels. For small craft with a size of less than 8 metres, only one hand bilge pump is required instead of two. This is in line with the old Regulation 7.2.2.3 for small craft with a gross tonnage below 10. The requirements for the minimum delivery volume of pumps are also taken from the old Regulation 7.2.2.3 and from the old Regulation 7.2.2.6. They are now graduated according to the length of the vessel instead of gross tonnage as is currently the case. These requirements are thus brought into line with the change in the measurement basis already made in Chapter 1, which is in turn internationally in use for small craft (see (1)). In addition, Regulation 9.8 is also to be observed with regard to bailers and damage control material.

The new Regulation 7.6 addresses emergency steering options and auxiliary steering gear. It is based on the rules for traditional ships (Regulation 11 in Chapter 2 of Part 3 of Annex 1a SchSV) and makes a distinction from power-operated steering gear. Redundancy is required because of the higher risk of malfunction in commercial use.

The table in the new Regulation 8.1 lists the life-saving appliances to be carried. This is because international standards do not require life-saving appliances for small craft. Therefore, the generally applicable standards from Chapter 2 have been adapted to the size of small craft. The graduation made here is in line with the different operating ranges of small craft. The requirements from the old Regulation 3.3 to carry life jackets for each person on board and work safety vests for each crew member are maintained. As under the old Regulation 3.1, life-rafts which are capable of accommodating all persons on board must be carried, with the exception of vessels under 6 metres in length. This length-related exception also applies to the obligation, previously laid down in Regulation 3.3, to provide an immersion suit for each crew member. Both exceptions are due to the extension of the scope of these requirements, which until now applied only to small craft with a vessel length of at least 8 metres. The reason for the extension is the BSU's safety recommendation (see above). At the same time, the exemptions take into account the limited accommodation available for equipment on board vessels under 6 metres in length. The number and type of lifebuoys to be carried by all small craft is taken from the old Regulation 3.5, with a further reduction being appropriate for small craft with a length under 6 metres to reflect their small size.

The new Regulation 8.1 requires, for the first time, all small craft to carry means for making optical emergency signals. The type and number of these again depends on their size of the craft: Parachute flares are required for small craft of all vessel lengths. The international maritime standard is 12 units (SOLAS Regulation 6, paragraph 3, Chapter III) and is the starting point for determining the quantity to be carried on board small craft with a length of at least 12 metres. If the length is smaller, the number is reduced, but hand flares and smoke pots have also been added here. This is due to the possible uses of these vessels.

Regulation 8.2 lays down requirements for the storage of life-rafts. The requirements set out in Regulation 3.7 of Annex I to Directive 2013/53/EU are not sufficient in this regard, as, for example, there are some catamarans with life-rafts under the aft crossbeam just above the waterline. In addition to easy accessibility, easy opening and launch must be ensured.

The new Regulation 8.3 applies to sports training craft which, as a result of Article 2(2)(5) now fall under the SchSV. A provision on personal buoyancy aids was already laid down in the Guidelines on safety rules for recreational craft used commercially for training purposes pursuant to § 52a SchSV of 25 August 1997. However, the DIN standard referred to has been specified in more detail and updated here.

Regulation 8.4 reproduces the rule on ladders from the old Regulation 3.6. and adds the requirement that the ladders must be accessible to a person in the water without assistance from others or be capable of being operated by them without assistance from others. This addition corresponds to Regulation 2.3 of Annex I to Directive 2013/53/EU and is necessary in particular in the case of class proof.

Regulation 8.5 is based on Regulation 17-1 of Chapter III of the Annex to the SOLAS Convention and is in line with the decision of the IMO Maritime Safety Committee that, in an emergency situation requiring activities to rescue people from the water, it is beneficial for ships not covered by Chapter III of the Convention to have on board plans and procedures for the recovery of persons from the water (Resolution MSC.346(91), VkB1. 2014 p. 625).

Regulation 8.6 requires that life-saving appliances to be carried by small craft are approved in accordance with Directive 2014/90/EU. This is to ensure a high level of safety in the equipment, as is the case in commercial shipping and generally for cargo ships (Regulation 1.5, Chapter 2, Part 6, Annex 1a SchSV). Due to the requirements for small craft with regard to equipment and in particular life-saving appliances, which differ from Chapter 2, a clarification is provided here in addition to Regulation 3.2 in Chapter 1 of Part 6 of Annex 1a SchSV.

Regulation 9 covers the requirements for other equipment. 9.1 lays down requirements for radio equipment for all small craft. This is the internationally prescribed equipment which, in the case of small-sized craft, must be mandated on a national level to ensure the necessary communication worldwide. The technical requirements for radio equipment for small craft are therefore also in line with those in the other parts of the SchSV. Regulation 9.1 requires, for example, the satellite emergency beacons (EPIRBs) provided for in Chapter IV SOLAS for small craft in order to ensure that the craft can be located by satellite in the event of an emergency. Regulation 9.1.2 restricts the obligation to have a NAVTEX receiver due to the principle of proportionality. For the same reason, Regulation 9.1.3(a) provides that craft under 6 metres in length should be able to use a portable VHF radiotelephone apparatus instead of fixed radio equipment. This takes into account the spatial limits for accommodating equipment on craft of this small size. Regulation 9.1.3(b) details the EPIRB equipment for craft under 6 m in length.

Regulation 9.1.4 reproduces for sports training craft the current requirement from the Guidelines on safety rules for recreational craft used commercially for training purposes pursuant to § 52a SchSV 1997 (Guidelines for training craft) of 25 August 1997 (VkB1. p. 572). Regulation 9.1.5 also comes from the Guidelines for training craft and is reproduced for all sailing craft falling under Chapter 3.

New here is the clarifying reference in Regulation 9.2 to the international collision prevention rules generally applicable in maritime transport with regard to positioning lights and sound-signalling systems. Account must therefore be taken in this context of the Ordinance on the International Regulations for Preventing Collisions at Sea of 1972 of 13 June 1977 (BGBl. I p. 813), as last amended by Article 22 of the Act of 13 October 2016 (BGBl. I p. 2258).

Regulation 9.3 introduces, for the first time, the obligation of all small craft to be equipped with an automatic identification system (AIS). AIS is the normal equipment standard today, particularly in the case of commercially used vessels, in order to be easily recognisable by navigation control centres and other vessels. In addition to the contribution this will make to the safety of shipping, which should not be underestimated, the obligation to have an AIS also significantly assists speed monitoring in sensitive maritime areas and national parks. The Lower Saxony shipping administration regularly observes, in the Lower Saxony Wadden Sea National Park, failure to comply with the maximum speeds laid down in the navigation rules for that area, especially by small craft engaged in commercial passenger transport between the islands. Findings from the water police indicate these small craft are often driven at speeds of more than 25 knots where the maximum permitted speed within the national park is 16 knots – in bird and seal protection areas only 8 knots. Compliance with speed limits is essential for the protection of the National Park: They help to reduce the risk of collision with marine mammals, evasion responses by animals and pollutant and noise emissions. The small size of the craft, class A AIS are also approved. However, for craft used for commercial passenger transport, class A AIS are mandatory due to the higher transmission power/frequency. The Global Maritime Distress and Safety System (GMDSS) also includes Search and Rescue Radar Transponders (SART), which is why all small craft must carry them so that they can be found more quickly by the rescue services in the event of a maritime emergency. Finally, being equipped with a GPS receiver is used for the necessary position determination. The obligations under Regulation 9.3 to carry equipment take into account the BSU's findings on the details of the accident involving the GEO PROFILER surveying boat (investigation report 258/18): Following the failure of the on-board electronics due to water ingress, it was no longer possible to make an emergency call and the crew were left drifting in the night sea for hours without being able to alert the rescue services. When the search was launched, the time and position of the last AIS signal helped to find the missing persons.

By referring to the requirements of Section C.I.4 of Annex 1, Regulation 9.4 prescribes the international safety standard for ships below 150 GT for navigation equipment of all small craft. The reference is intended to specify in greater detail those provisions of Chapter V SOLAS, which are to be applied in any event via Regulation 1.1, Chapter 2 and Regulation 3.2, Chapter 1, new version of Part 6 of Annex 1a SchSV. To ensure that the rule is appropriate, the differentiation by size and type of ship in Section C.I.4 is maintained, but adjusted in terms of the measurement basis. Thus, according to Regulation 9.4(a), the requirements of Section C.I.4. Points 1.1 and 3 of Annex 1 SchSV apply to all small craft with a length of 15 metres and over. For small craft under 15 metres in length, Regulation 9.4(b) stipulates the navigation equipment requirements applicable to recreational craft. For craft below 6 metres, compliance with these standards may be difficult in some cases; the constrained conditions limit the obligation to have equipment in this case. Therefore, deviations are possible in accordance with Regulation 9.4(c).

The new Regulation 9.5 on safety equipment specifically for sailing craft is taken from the well-established Guidelines for training craft of 25 August 1997 (VkBl. p. 572). This is also the case for the new Regulation 9.6. Regulation 9.7 complements the rule on bilge pumps in Regulation 7.5 and also comes from the Guidelines for training craft. The safety briefing provided for in the new Regulation 9.8 has now been extended to passengers over and above the original provision in the Guidelines for training craft.

Regulation 10 covers the navigation areas and navigation restrictions of small craft. The ability of BG Verkehr to locally restrict the navigation area by means of a weather clause in Regulation 10.1 already existed under the first sentence of the old Regulation 5. The navigation area is to be determined taking into account Regulations 10.2 and 10.3, depending on the type of proof of compliance with safety requirements chosen (Regulation 2.1), i.e. through the route of relevant classification rules (Regulation 10.2) or harmonised standards within the meaning of Directive 2013/53/EU (Regulation 10.3). When relying on classification rules, the certified design must not be exceeded. When relying on EU conformity assessment, the navigation area is to be limited in a differentiated manner depending on type and design. This is in line with the categories of industry standards that are also used in the class rules. The safety standards contained therein presuppose the limitations set out. The distances in nautical miles shown in the table refer to a distance from the coastline at mean high water. The permitted distances are now determined on the basis of the design category, which describes the design of the ship in terms of maximum wave height and wind force, and on the basis of 'open', 'decked' and 'partially decked' design, which is based on the presence of a watertight weather deck and thus on the possibility of water taken in being channelled to the bilge and thus reducing the stability of the vessel (risk of capsizing). Open craft where water can ingress without hindrance and which are constructed in the least-strict design category C shall have the lowest navigation area of 5 nautical miles. On the other hand, partially decked vessels are allowed to cover longer distances and the distances are greater still for decked vessels. Decked vessels have a watertight subdivision. In the case of fully and partially decked vessels, the entry of water into the bilge is prevented completely or in part if the closed state is maintained. In addition, for both types of vessels, a distinction between design categories is made for the permitted navigation area. This differentiated approach creates a balanced and therefore proportionate regulation.

For small craft engaged in commercial passenger transport, Regulation 10.2 sets a limit on the navigation area of 6 nautical miles for craft up to 8 metres in length. Commercial passenger transport on open sea, i.e. beyond island traffic, is not safe with such small craft. The harsh sea conditions often found on open sea, with higher swell and higher winds, poses a major danger for passengers on small craft to their well-being and to life and health. This corresponds to the distance of the East Frisian islands from the mainland coast. For craft of 8 metres in length and over, a maximum navigation area of 20 nautical miles is permitted for commercial passenger transport. This is in line with previous practice, for example, in the case of sports training craft.

Pursuant to Regulation 10.4, BG Verkehr sets the maximum number of persons on board. This is because the condition of the craft and the conditions on board may require limitations in the number of persons. This will therefore be checked during the survey.

Regulation 10.5 lays down operational prohibitions for small craft in commercial passenger transport. Regulation 10.5(a) addresses the critical risk factor of voyages in winter: ice. This is because the vessels used are not designed to operate in ice, in view of the strength of their hull alone. However, in order not to limit commercial passenger transport by small craft to the summer months (April to October), the operational prohibition is linked to the specific and expected ice situation. Decisive here are the ice reports and ice charts issued by the BSH, as is clear from Regulation 10.8. As soon as the BSH predicts the formation of ice for the navigation area, such a voyage should be ruled out. Regulation 10.5(b) and (c) prohibit commercial passenger transport from a wind force of 6 Beaufort or

8 Beaufort in the case of storm winds. Even with a wind force of 6, large waves of 2.5 to 4 metres in height begin to form, where the crests break and spray develops. At 7 Beaufort, the sea already towers up and wave heights of up to 6 metres are reached. Due to these dangerous weather conditions, the use of vessels in design category A must also be restricted in commercial passenger transport. Finally, the operational prohibition with on-shore winds of 6 Beaufort and above is in line with the rules applicable to day-trip boats and recreational angling craft (Regulation 6.4 of Part 1 of Annex 1a SchSV). Similarly, the operational prohibition in fog is reproduced for small craft in commercial passenger transport in Regulation 10.5(d), with the grounds of reduced visibility now being irrelevant and, in accordance with Regulation 10.6, a voyage may also be carried out at a visibility of less than 500 metres if a radar equipment is used. This is because the radar makes the vessel visible, so it is possible to avoid collisions even in poor visibility, which would otherwise be feared if the visibility range is less than 500 metres. A difference in treatment with respect to day-trip boats which, in accordance with Regulation 6.4(c)(bb) of Part 1 of Annex 1a SchSV, may embark on a voyage with radar only for a visibility of 500 metres or above is justified: The age and draught of these vessels and the possible number of passengers of 50 persons (more weight and more draught) pose a much higher risk potential, whereas small craft for commercial passenger transport have a very small draught, thus using a wider corridor with a lower risk of collision, with the number of persons to be carried being limited to 12 persons. On the other hand, there is no requirement for small craft to be equipped with radar because this would be disproportionate and would not be in line with the international standard, which only applies to passenger ships (with more than 12 passengers) and cargo ships of 300 GT and above (SOLAS Chapter V, Regulation 19.2.3). From a technical point of view, radar makes sense only above a certain height of the vessel in order to be able to view the horizon. However, for the reasons set out above, where the corresponding equipment is fitted voluntarily, an exemption from the operational prohibition with severely restricted visibility is appropriate for reasons of proportionality.

Regulation 10.7 is a necessary addition to the limitation of use in certain weather conditions by Regulations 10.1 and 10.5 when the voyage has already started. It applies to all small craft. The content of the regulation is identical to that of Regulation 6.5 of Part 1 of Annex 1a SchSV for day-trip boats and recreational angling craft. Like Regulation 10.5, the regulation focuses on the dangers of strong winds – but a completely different weather phenomenon is involved: The height of waves and the stresses on the vessels increases as the distance from land and the wind force increases. This is why a different legal consequence is provided for on grounds of proportionality: In strong onshore winds, high waves endanger the ship, and therefore an operational prohibition is necessary in accordance with Regulation 10.5(c). In strong offshore winds, the ship may be driven off course and out to open sea with dangerous wave heights, which can be countered by restricting operations to the sheltered coast.

Regulation 10.8 clarifies which weather forecasts are relevant when determining the weather conditions that lead to the operational restrictions under Regulations 10.1, 10.4 and 10.6.

The granting of derogations and exemptions from the requirements of Chapter 3 by BG Verkehr is governed by Rule 11. Account must be taken here of an equivalent level of safety. The wording of the old Regulation 6 has been retained unchanged.

Regulation 12.1 lays down transitional arrangements for small craft under 8 metres in length that were already in service at the time of entry into force of this amending Ordinance. These vessels do not require a safety certificate under the current legal framework. However, the entry into force of the amending Ordinance means that, for the first time, these vessels fall within the scope of Chapter 3 with its ship-related safety standards, including the survey and certificate obligation under Regulation 4 and the obligation under § 9(4) SchSV to present the ship to BSH and Bk Verkehr for survey. This means that, on the date of entry into force, these small craft would face the threat of being seized



under § 11(1) first sentence subparagraphs 2 and 3 SchSV and any voyage without carriage of a valid safety certificate being punishable as an administrative offence in accordance with § 14(1) subparagraph 1 letter d and subparagraph 2 letter m SchSV. The entry into force of the amending Ordinance would therefore lead, in practice, to a ban on small craft under 8 metres. In order to reduce the negative economic consequences for operators of small craft under 8 metres, they should be allowed to continue their professional activity for a transitional period. However, limiting the transitional period once to 18 full calendar months (plus the rest of the month of promulgation if applicable) also takes into account the risks that may arise from craft that do not comply with the newly introduced requirements. Due to the particular risk situation in commercial passenger transport, on the other hand, the transitional period is limited to only 6 full calendar months for the vessels used in that way. If there is an imminent danger as a result of a breach of the ship-related safety standard, i.e. if a harmful event is likely to occur in the near future, an operational ban under § 11(1) first sentence subparagraph 1 SchSV can also be imposed during the transitional period. Regulations 10.5, 10.6, 10.7 and 10.8 must also be complied with, with their restrictions on the navigation area, due to the hazards resulting from wave height, wind and weather conditions. Operating despite heavy winds or ice has been observed on occasion by the shipping administration, giving rise to the new provisions of Chapter 3.

Regulation 12.2 also lays down transitional arrangements for small craft which obtained a ship safety certificate in accordance with § 14 of the Maritime Recreational Craft Ordinance before the law was changed by this Ordinance. For these small craft, built as recreational craft, the 'Safety rules for recreational craft used commercially for training purposes in accordance with § 52a of the Ship Safety Ordinance 1997 (Guidelines for training craft)' of 25 August 1997 (VkB1. p. 572) shall apply. These craft are now subject to the new provisions of Chapter 3. For reasons of proportionality and legitimate expectations, the construction requirements of the new Chapter 3 will only be applied to these vessels after 2033. It is assumed that these construction requirements could not be achieved or only at high cost. Furthermore, the navigation area restrictions introduced by this Ordinance should not apply to these vessels, as business models based on the replaced rules may be affected.

Finally, it should be noted that: The legal changes already in force regarding the crew certificate and the master's qualifications are also connected to the improvement in safety of the commercial use of small craft under 8 metres in length: All merchant ships, irrespective of their length, now require a ship's crew certificate (2nd Ordinance amending the Ordinance on Safe Manning of 23 June 2021, BGBl. I 2021 p. 1849). An NK 100 master's certificate is required for the position of navigating officer on vessels under 100 gross tonnage and propulsion power not exceeding 300 kilowatts, which are used for national voyages up to six nautical miles from the German coast and with a maximum of 12 passengers on board (1st Ordinance amending the Seafarers Qualifications Ordinance of 28 July 2021, BGBl. I 2021 p. 3236).

#### (4) Amendment to Chapter 4

Chapter 4 on special craft is amended in three ways:

First, Regulation 2.1 is being amended in such a way that visibility must also be ensured in advance. This ensures that the relevant work area can be viewed from the bridge, irrespective of the position of the propulsion and winch.

Second, the third sentence is deleted from Regulation 2.5 and thus the reference to the conventional propulsion technologies for tugs in the form of Voith-Schneider and Schottel propulsion is deleted. According to the traditional construction of tugs, the propulsion was located in the front third of the vessel and the towing winch on the quarter-deck. Due to the sharp increase in requirements for the bollard pull during port assistance (attributable inter alia to the increasing size of cargo vessels) and the draught restrictions, other propul-

sion concepts have been required, with the vessel's propulsion being located at the stern and the towing winch on the front deck. The amendment in 2.5 now opens up the construction regulations to such positioning, which has become common on the market. In addition, this new option also ensures openness to technology.

Third, for non-self-propelled vessels, the new Regulation 4.3 is necessary in order to exempt them from Regulations 15, 17, 18, 19 of the Annex to the SOLAS Convention, with the exception of paragraph 19.2.1.7. Regulation 3 point 1 in Chapter V of the Annex to SOLAS allows exemptions and equivalent replacements for, inter alia, ships without mechanical propulsion. These vessels should only be required to comply with the SOLAS requirements to the extent that it is reasonable for them to be implemented on board those craft.

#### (5) Amendments to Chapter 5

The current Chapter 5 and its safety requirements for workboats is deleted. The regulations in that provision were specifically applicable to vessels used for transport, rescue, recovery and work operations on a limited scale and over short distances close to the coast or as a ship's boat to be used in sight of the mother vessel. However, the new requirements of the present draft for small craft in Chapter 3 of Part 6 of Annex 1a SchSV can cover the regulatory needs with regard to workboats. This makes it possible to delete the current Chapter 5 for the benefit of coherent overall regulation by Chapters 1 to 3 of Part 6 of Annex 1a SchSV.

#### (6) Amendments to Chapter 6

Following the deletion of the preceding chapter on workboats, the regulations on offshore service vessels are now contained in Chapter 5. The current Regulations 1 to 10 are replaced by the new Regulations 1 to 5. The new regulations, in particular with regard to damage stability, align the rules for offshore service vessels with those of the other countries bordering the North Sea, in particular those of the Netherlands and the United Kingdom. The reference to the 2008 SPS Code Regulations implements the non-HSC requirements as described in IMO Resolution 418(97). In addition, the harmonisation of the regulations should reduce the administrative burden for operators of such vessels. The burden for the authorities will also be reduced due to the removal of equivalence checks.

In particular, in contrast to the current Regulation 2, in the new Regulation 3 no distinction is made between HSC passenger ships and HSC cargo ships. This change in regime already takes account of the relevant IMO Maritime Safety Committee Resolution (MSC 105), according to which the specific safety requirements are to be directed towards HSC cargo ships in future. This new yardstick is better suited to take into account the specific safety aspects of these uses. For example, the requirements for life-saving appliances are higher than those for passenger ships.

Regulation 3.8 enables an exemption from the obligation to be equipped with a sound-signal receiver system for vessels under 30 metres in length. Due to the good manoeuvrability of these vessels, no sound-signal receiver systems are required, as is the case under the relevant regulations of the Netherlands and the United Kingdom.

Existing rights for existing offshore service vessels designed as high-speed passenger craft are protected by the new Regulation 3.9.

#### **Letter (e)**

Article 1(10)(d) contains the amendments to Part 7 of Annex 1a SchSV. This Part concerns the requirements concerning the freeboard.

#### **Double letter (aa)**

The outdated designation 'Federal Navy' for the German Navy is replaced by the common cross-military name 'Federal Armed Forces' in line with the new Regulation 1.2.1 in Chapter 1 of Part 6 of Annex 1a SchSV.

#### **Double letter (bb)**

Consequential amendment due to Article 1(10)(d), in particular because of the new special rules on load lines for small craft in Chapter 3 of Part 6 of Annex 1a SchSV.

#### **Double letter (cc)**

Consequential amendment due to Article 1(10)(d), in particular because of the repealing of the current Chapter 5 (workboats) in Part 6 of Annex 1a SchSV.

#### **Double letter (dd)**

Consequential amendment due to Article 1(10)(c), in particular because of the new special rules on load lines for small craft in Chapter 3 of Part 6 of Annex 1a SchSV.

#### **Double letter (ee)**

#### **Triple letter (aaa) to (ccc)**

The rules for granting the freeboard are now to be laid down only in Regulation 5 'Minimum freeboard and freeboard mark'. To this end, the current regulatory content of Regulation 3.3 is inserted into the new Regulation 5.1 and the current Regulation 5.1 becomes the new Regulation 3.1. This results in a more appropriate thematic allocation of the rules to the headings of Regulations 3 and 5. This improved taxonomy serves to clarify the legislation.

The renumbering of current Regulations 3.1 and 3.2 is a necessary consequential change following the insertion of a new Regulation 3.1.

#### **Double letter (ff)**

The following amendments concern Regulation 4.

#### **Triple letter (aaa) to (ccc)**

The inclusion of the regulation on offshore service vessels in Regulation 4 ensures that survey requirements from this Part (Part 7) of Annex 1a do not conflict with those of the new Regulation 3.1 in Chapter 6 of Part 6 of Annex 1a. The amendment to the heading of Regulation 4 reflects this addition.

#### **Triple letter (ccc)**

#### **Double letter (gg)**

The wording of the current Regulation 5.1 is now in the new Regulation 3.1, unchanged. The regulatory content of the new Regulation 5.1 now consists of the first and second sentences of the current Regulation 5.2, supplemented by the unchanged wording of the current Regulation 3.3. See the explanatory notes for Article 1(10)(e)(ee) for the reasons for the reorganisation of the rules in Regulations 3 and 5.

The regulatory content of the new Regulation 5.2 now consists of the third sentence of the current Regulation 5.2, supplemented by new requirements for marking the minimum freeboard: These provide clarification on the location and method of affixation.

#### **Double letter (hh)**

The wording of the current Regulation 6.2 is amended editorially to the effect that the term 'journey' is now replaced by the term 'use'.

Finally, the provision of current Regulation 6.2 is supplemented by the possibility of exemptions for ships operating only in limited weather and sea conditions. This will allow for greater flexibility in the application of Part 7, as exceptions or equivalent replacements can now be issued in the case of weather and/or swell clauses, irrespective of the restricted navigation area, which has not been possible to date. This makes it easier for BG Verkehr to comply with the principle of proportionality when applying Part 7.

#### **Double letter (ii)**

The minimum freeboard requirement of 5 % of the width of the ship is deleted, as such a minimum freeboard is not feasible for very wide but flat craft (e.g. pontoons or pontoon-shaped craft).

#### **Point 11**

Article 1(11) contains the amendments to Annex 2 to the SchSV with its provisions on ship certificates and acknowledgments and ship surveys.

#### **Letter (a)**

Letter (a) contains the amendments to the list of certificates issued by BG Verkehr.

#### **Double letter (aa)**

This amendment adds the certificate for ships operating in polar waters to the list of certificates issued by the Federal Transport Administration under SOLAS. The obligation of these vessels to be certified is laid down in Regulation 3 of Chapter XIV of the SOLAS Convention and the additional requirements for them are laid down in the Polar Code referred to in point I.14 of Section A of the Annex to the SchSG (VkB1. 2005 p. 843, special volume C 8146).

#### **Double letter (bb)**

Amendments to the MARPOL Convention require the inclusion of new certificates and re-arrangement.

#### **Triple letter (aaa)**

The inclusion of the oil pollution prevention exemption certificate for unmanned non-self-propelled barges (UNSP) serves to implement Resolution MEPC.330(76) of the Marine Environment Protection Committee of the International Maritime Organisation. This resolution contains amendments to MARPOL Annex I and allows, inter alia, exemptions from the survey and certification requirements for UNSP barges. An exemption certificate is issued for the UNSP barge in question when a corresponding exemption from these requirements is granted in accordance with paragraph 7 of Regulation 3 of Annex I to MARPOL. In the case of ships flying the German flag, the oil pollution prevention exemption certificate for unmanned non-self-propelled barges (UNSP barges) is issued by BG Verkehr. The inclusion of the exemption certificate, in conjunction with § 9(3) of the SchSV, creates

the appropriate legal basis for issuing the certificate and for the corresponding obligations to carry it under § 13(1) subparagraph 4 and (2) subparagraph 12 SchSV.

#### **Triple letter (bbb)**

The new point (16a.) contains the certificate previously referred to in point (26.). As it is issued in accordance with Regulation 5 and 6 of Annex IV to MARPOL, it belongs to text item (II) and is to be rearranged there between existing points (16.) and (17.). This is therefore an editorial correction.

On the other hand, the new point (16b.) contains a new certificate. The inclusion of the sewage prevention exemption certificate for unmanned non-self-propelled barges (UNSP) serves to implement Resolution MEPC.330(76) of the Marine Environment Protection Committee of the International Maritime Organisation. This resolution contains amendments to MARPOL Annex IV and allows, inter alia, exemptions from the survey and certification requirements for unmanned non-self-propelled barges (UNSP barges). An exemption certificate is issued for the UNSP barge in question when a corresponding exemption from these requirements is granted in accordance with paragraph 2 of Regulation 3 of Annex IV MARPOL. In the case of ships flying the German flag, the sewage pollution prevention exemption certificate for unmanned non-self-propelled barges (UNSP barges) is issued by BG Verkehr. The inclusion of the exemption certificate, in conjunction with § 9(3) of the SchSV, creates the appropriate legal basis for issuing the certificate and for the corresponding obligations to carry it under § 13(1) subparagraph 4 and (2) subparagraph 12 SchSV.

#### **Triple letter (ccc)**

The inclusion of the air pollution prevention exemption certificate for unmanned non-self-propelled barges (UNSP) serves to implement Resolution MEPC.328(76) of the Marine Environment Protection Committee of the International Maritime Organisation. This resolution contains the new version of MARPOL Annex VI. It contains, as well as Resolution MEPC.330(76), amendments to requirements for unmanned non-self-propelled barges (UNSP barges). Annex VI also exempts UNSP barges from survey and certification requirements. An exemption certificate is also issued here for the UNSP barge in question when a corresponding exemption from these requirements is granted in accordance with paragraph 4 of Regulation 3 of the Annex to MARPOL. The issuing authority for certificates for ships flying the German flag is BG Verkehr. The inclusion of the exemption certificate, in conjunction with § 9(3) of the SchSV, creates the appropriate legal basis for issuing the certificate and for the corresponding obligations to carry it under § 13(1) subparagraph 4 and (2) subparagraph 12 SchSV.

#### **Double letter (cc)**

Amendments to other certificates and acknowledgments.

#### **Triple letter (aaa)**

Consequential amendments due to the abolition of proof of equivalence (Article 1(4)(b)) and the inspection certificate (see explanatory notes for Article 1(6)(b)(cc)).

#### **Triple letter (bbb)**

Consequential editorial amendment due to Article 1(11)(a)(bb) (bbb)

#### **Letter (b)**

Letter (b) revises the provision on test voyage certificates. The aim is to align the legislation with existing practice. This is based on the safety requirements for seagoing vessels

on test voyages which have since been adopted on the basis of the old rules (VkB1. 2021 p. 110). These include a definition of 'test voyage', which is reproduced in the new point 5.1, without being changed. The new point 5.3 also refers to the safety requirements adopted. Point 5.2 reproduces the authorisation from the old regulation unchanged.

#### **On Letter c**

#### **On Double letter (aa)**

This is a consequential editorial adjustment due to the repealing of Subsection A.I of Annex 1 SchSV by Article 1(9)(a)(aa).

#### **Double letter (bb)**

The amendment to the current wording adds the absence of cybutryne. It thus takes into account Resolution MEPC.331(76) of the Marine Environment Protection Committee of the International Maritime Organisation.

#### **Point 12**

On the one hand, the existing special regulations for tidal flat shipping on the Wadden Sea are given a newly drafted regulation on voyage restrictions and, on the other hand, the regulations on the special safety standard are being aligned with the amendment of Directive 2009/45/EC by Commission Regulation (EU) 2020/411 of 19 November 2019. These are supplemented by a regulation on tidal flat shipping on the Wadden Sea for passenger ships the keel of which was laid on or after 19 September 2021 or which were in a similar stage of construction before that date. This new regulation is intended to derogate from Section 2, Chapter II-1, Part B of Annex I to Directive 2009/45/EC, as amended by Commission Regulation (EU) 2020/411 of 19 November 2019. It is being integrated into the existing rules on exemptions for tidal flat shipping on the Wadden Sea.

Article 9(3) of Directive 2009/45/EC allows Member States, provided there is no reduction in the level of safety and subject to the procedure laid down in paragraph 4 of this Article, to lay down specific rules for ships engaged in domestic voyages under certain conditions of navigation carried out in that State, including its archipelagic waters, and areas in which the open sea conditions do not prevail. Such a special rule for exemption from the specific requirements of this Directive, which, having regard to the conditions laid down therein, sufficiently maintains the level of safety, has been adopted in the Federal Republic of Germany for passenger ships engaged in tidal flat shipping in the Wadden Sea in the Appendix to Annex 1 SchSV.

Tidal flat shipping on the Wadden Sea denotes voyages in the large shallow water areas situated along the German North Sea coast, which become temporarily dry due to the range of the tide. These waters are particularly protected by the offshore northern and eastern Frisian islands. In Germany, unlike for example in the Netherlands, voyages in this special geographical area are part of maritime transport. Passenger ships operating in the tidal flat area on the German North Sea coast are therefore subject to Directive 2009/45/EC.

The following specific voyage conditions apply to tidal flat shipping on the Wadden Sea: Open sea conditions do not prevail; on the contrary, the prevailing sea conditions are similar to those of large inland lakes (the significant wave height in the summer months is no more than 1.0 metres, and in the winter months is no more than 1.5 metres). Voyages between the mainland and the offshore islands are of limited duration (usually around 45 to 120 minutes) and the rescue services of the German Sea Rescue Society are available nearby. In addition, ferry traffic is regulated in such a way that any conceivable location can be reached by another vessel within 30 minutes. Passenger ships engaged in tidal flat shipping on the Wadden Sea are only used in good weather conditions, but must also be

able to reach port in the event of weather deterioration. As large areas of the tidal flats are at times dry, navigation takes place almost exclusively in the tidal channels or navigation channels. Feeder and supply traffic can only be carried out over relatively short periods with sufficient water. The vessels meet in opposite directions during the voyage; cross-traffic is practically ruled out. In the event of a collision, the probability of large penetration depths in the case of side damage is low. Potential parties to the collision are limited in size by the flat water. Due to the limited draught, passenger ships are relatively wide and flat for tidal flat shipping on the Wadden Sea. They therefore need a particular degree of intact stability. This is reflected in the special rules on tidal flat shipping on the Wadden Sea.

The existing special rules on tidal flat shipping in the Wadden Sea have proved their worth in view of accidents to date: Since the rules were introduced, there have been no safety-related incidents on passenger ships engaged in tidal flat shipping on the Wadden Sea.

§ 4 introduces a new rule restricting operations, from which existing vessels are to be excluded, however. The German North Sea islands should be served without interruption, even in the event of a storm, taking advantage of the special conditions of the Wadden Sea. The need for this is due to the fact that, on average over the last five years, wind force 9 has been reached or even exceeded on 31 days a year in the North Sea area. The limit of 12 Beaufort is in line with the current practice of ferry and passenger shipping companies operating in the Wadden Sea, which have served the islands for many years without accident.

The reason for expressly limiting the obligation to make for a port that is safe, is that at certain wind directions and water levels, not every port provides sufficient protection or may even present additional risks such as high or low water levels.

The operating restrictions are not intended to prevent ships from weathering out a storm – a traditional strategy by the practical seafarer: Quite deliberately, the ship does not make for port during a storm or will leave a port during the storm in order to avoid the specific hazards expected there (e.g. high or low water levels, high wind loads with a risk of breaking lines).

In accordance with Article 9(3) of Directive 2009/45/EC, the new and additional regulation to the specific safety standard in the Annex differs from Section 2, Chapter II-1, Part B of Annex I to Directive 2009/45/EC in that, in the probabilistic damage calculation required there under SOLAS Chapter II-1, Part B-1, Regulation 6.2.3, the R subdivision factor for passenger ships in tidal flat shipping on the Wadden Sea is set at 0.95 R. This takes into account the specific conditions of tidal flat shipping on the Wadden Sea: The passenger ships used here are limited both in their draught and in their length for turning in the small ports of North and Eastern Frisia. Such a passenger ship of limited length may not or may find it difficult to meet the requirements of the SOLAS Convention for the subdivision of the hull which depend exclusively on the number of persons transported. This is because the number of persons relevant for the calculation of the probabilistic damage calculation would be determined in the case of passenger ships engaged in tidal flat shipping on the Wadden Sea from the peak load in the summer; however, this is not needed all year round. Ships sail around 90 % of the year with much smaller numbers, often less than half of the authorised number.

### **Point 13**

Pursuant to the Federal Chancellor's Organisational Order of 8 December 2021 (BGBl. I. p. 5176) the Federal Ministry for Transport and Digital Infrastructure was renamed the Federal Ministry for Digital and Transport.

## **Article 2 (Consequential amendments)**

### **Paragraph (1)**

Paragraph (1) deals with the amendment to § 6.02 of Annex III to the Inland Waterway Vessel Inspection Code (BinSchUO).

### **Point 1 and point 2**

In essence, the new version is a consequential amendment resulting from the removal of the obligation that the adjustment of magnetic compasses is to be carried out only by a person (adjuster) recognised by the Federal Maritime and Hydrographic Agency (BSH) or by a Member State of the International Maritime Organisation (IMO), brought about by **Article 1(3)** and **Article 1(9)(b)(bb)**. In this respect, the current letter (c) of § 6.02(4) of Annex III to the BinSchUO is adjusted and point 5 deleted. In the context of the new regulation of marine equipment, there is no longer any need for recognised facilities to be taken into account when inspecting the compass installation in letter (a) of § 6.02(4) of Annex III to the BinSchUO, as they no longer exist. In addition, the current second to fifth sentences of § 6.02(4) of Annex III to the BinSchUO have been adapted to the new rule in Annex 1, Section C, Subsection C.I.4 SchSV (see above). In addition, the value of the maximum permissible deviation from the current provision is reproduced in § 6.02(4) of Annex III BinSchUO.

For the rest, it should also be noted that § 1(2) of Part 1 of Appendix 1 to Annex III BinSchUO requires magnetic compasses to reflect the state of the art, in particular the specification DIN ISO 25862, January 2021 edition.

### **Paragraph (2)**

Paragraph (2) includes the necessary consequential amendments to the Maritime Recreational Craft Ordinance (SeeSpbootV)

### **Point 1**

This point contains the changes to the table of contents. It is necessary due to changes in some headings. The changes have in common the fact that the term 'use' is replaced by 'subsequent use'. This is due to the regulatory logic behind the legislation that the law on recreational craft is to be separated more obviously from commercial shipping law under the SchSV: If a vessel previously built or dedicated for sports and leisure purposes is used commercially, it is no longer a recreational craft – neither within the meaning of Directive 2013/53/EU nor the SeeSpbootV. Its subsequent commercial use makes it a small craft subject to the SchSV. See also the explanatory notes for the subsequent paragraphs of **Article 2(2)**.

### **Point 2**

Point 2 contains the amendments to § 1 SeeSpbootV concerning the scope of the Ordinance.

### **Letter (a) and (b)**

The scope is terminologically aligned with the definitions. As, by definition, recreational craft cannot be used commercially (see the new definitions of 'recreational craft' and 'sports and leisure purposes' introduced in § 2(1) SeeSpbootV brought about by **Article 2(2)(3)(a)** and **(b)**), § 1 now no longer mentions recreational craft when commercial use is (also) meant, so as to be consistent with the regulatory logic. Regarding the new linguistic differentiation in the case of commercial use, see also the rewording of § 14(1) SeeSpbootV brought about by **Article 2(2)(5)**. The Directive now referred to in the text of § 1(1)



is essentially applicable to recreational craft and personal watercraft intended for sports and leisure purposes, which are not commercially used, but chartering or sports and leisure training purposes also fall within the scope of the Directive (Article 2(1)(a) and (b) and (2)(a)(Viii) and (b)(i) 3rd indent and (3) and Article 3(1) to (3) of Directive 2013/53/EU). The intended use is indicated by the manufacturer according to its risk analysis when placing the product on the market (Article 7(1) of Directive 2013/53/EU). It is specified in the owner's manual (Articles 7(7) and 9(4) in conjunction with Annex I Regulation A.2.5 of Directive 2013/53/EU). A watercraft originally designed or used for purposes other than sports and leisure purposes may be covered by the Recreational Craft Directive if substantial modifications or alterations to the engine have taken place or if the intended purpose has changed (Article 19(3) of Directive 2013/53/EU).

In connection with laying down the scope of the SeeSpbootV by reference to Directive 2013/53/EU, the reference in § 1 to the recast § 14(1) is necessary, as the SeeSpbootV, beyond the scope of Directive 2013/53/EU, lays down rules for the case described in the revised § 14(1) SeeSpbootV in which a watercraft originally built or dedicated for sports and leisure purposes is to be used commercially (§ 1(4) and § 14, § 15 and § 19 SeeSpbootV).

### **Point 3**

#### **Letter (a) and (b)**

The amendment to the definition of the term 'recreational craft' is a consequential amendment resulting from the new regulation of Part 6 of Annex 1a SchSV. The scope of Part 6 of the SchSV does not include small craft which are not used commercially and for sports and leisure purposes. These are to be regulated by the SeeSpbootV, insofar as they fall within its scope, which applies, for example, in the case of rental without the provision of a master. Accordingly, the definitions in the two ordinances are aligned so that the scope of application of the two ordinances can be better delimited from one another based on identical benchmarks. With regard to the term 'sports and leisure purposes', the reader is referred to the explanatory notes on Article 1(10)(d), in particular on the new Regulation 1.2.5 in Chapter 1 of Part 6 of Annex 1a SchSV.

Watercraft used in the maritime sector for sports and leisure purposes and which must be marked under the Recreational Craft Directive 2013/53/EU should, as previously, be covered by ship safety law under the SeeSpbootV. Such watercraft are regulated by Directive 2013/53/EU, to which the SeeSpbootV makes corresponding reference, particularly in the revised § 1. Vessels put into service or made available for sports and leisure purposes are therefore subject to the Directive and thus also to the SeeSpbootV. These may be original vessels built as recreational craft or vessels which are subsequently dedicated to those purposes. If vessels originally used as small craft within the meaning of Chapter 3 of Part 6 of Annex 1a SchSV are now used for sports and leisure purposes, they are recreational craft within the meaning of the SeeSpbootV and Directive 2013/53/EU. The express provision of Regulation 1.2.5 in Chapter 1 of Part 6 of Annex 1a SchSV is therefore necessary to clarify that watercraft not built as recreational craft might also be subject to the provisions for recreational craft rather than the SchSV. The SeeSpbootV does not cover small craft used for non-economic purposes, as is explained in the explanatory notes for Article 1(10)(d).

#### **Letter (b)**

#### **Letter (c)**

The renumbering is a consequential editorial change due to Article 2(2)(3)(b).

#### **Letter (d)**

The two definitions have been aligned with the SchSV as consequential amendments. In addition to small craft which are not used for sports and leisure purposes, commercially used watercraft should fundamentally be subject to the provisions of the SchSV. In this respect, an identical definition is necessary in order to avoid regulatory gaps. In accordance with Directive 2013/53/EU, rental without the provision of a crew or master is subject to the rules of that Directive and is not regarded as commercial use, as before. This understanding is ensured by the definition in § 2(1) subparagraph 5 and the present amendment.

The definition of sports training, for the first time, is due to the new special rules for sports training craft in § 14(2) SeeSpbootV, brought about by Article 2(2)(5). The term must be interpreted narrowly and its definition is therefore based on § 33(1) subparagraph 1 letter (a) of the Inland Waterway Vessel Inspection Code: Sports training should lead to the licence or certificate referred to in the provision and should be designed for this, or should serve as a refresher of the relevant requirements. It does not include simply carrying guests on commercially organised pleasure or event trips or tourist tours. In accordance with the definition of commercial use, only training offered publicly to an undefined group of people with a certain regularity for remuneration is covered – not training trips by sports clubs for their members.

#### **Letter (e)**

The renumbering is a consequential editorial change due to Article 2(2)(3)(d).

#### **Point 4**

See the explanatory notes for point 1.

#### **Point 5**

##### **(1) Amendment to § 14 SeeSpbootV**

Paragraph (1) of the amended provision now refers generally to the SchSV. It has been clarified that watercraft which are not intended to be used for sports and leisure purposes are not subject to the rules for recreational craft, but must be assessed under the provisions of the SchSV. From the point of view of ship safety law, it is fundamentally irrelevant for what purposes a watercraft was originally built. The decisive factor for the technical requirements that are to apply is the specific purpose at the time of entry in service, not what the vessel was designed for. If watercraft up to 24 m are used commercially, they are, regardless of their design, no longer recreational craft, meaning that the relevant provisions of the SchSV are to be applied.

Paragraph (2) contains a special provision for the watercraft referred to in § 1(4) SeeSpbootV and for sports training craft. These vessels are usually constructed as recreational craft and are used accordingly by trained personnel. They are subject to Directive 2013/53/EU and require additional equipment. This does not result in a significant change in the law, as vessels which comply with the requirements of § 52a of the 1997 Ship Safety Ordinance (Guidelines for training craft) can satisfy the provisions of Annex 1, Chapter 6, Part 3 SchSV with a few adaptations. Sports training craft with a hull length under 8 metres remain exempted, as is currently the case, from all ship-related safety requirements under the new Regulation 1.2.10 in Chapter 1 of Part 6 of Annex 1a SchSV.

##### **(2) Amendment to § 15 SeeSpbootV**

In order not to bring about any change in the law in the light of the term 'recreational craft' in the new § 2(1) subparagraph 1 with regard to qualifications and manning, reference is

made here, by way of derogation, to the design of the craft, which corresponds to the current legal situation. It is also clarified that these rules apply to maritime waterways. To date, the SeeSpbootV has referred to watercraft built as recreational craft; if such vessels were used commercially for training or for similar sports and leisure purposes, the qualification certificates of the Maritime Recreational Craft Driving Licence Ordinance were sufficient under § 15 SeeSpbootV. If these terms were to be re-used, there would be a contradiction, as recreational craft cannot, by definition, be used or operated commercially; at most, they can be provided for commercial purposes. Consistent with the regulatory logic behind Article 2(2)(2) and (3), mention is no longer made of recreational craft when commercial use of a watercraft previously built or dedicated for sports and leisure purposes is meant.

The amendment to § 15 is intended to prevent watercraft built as recreational craft which are chartered with crew or used for sports training from becoming subject to the general manning provisions for professional navigation because of the new § 2(1) subparagraph 1 SeeSpbootV. To bring about any change in the law concerning qualifications, reference must therefore again be made to the actual design, as the amended § 14 now does. A change in the law is not yet intended, including the rules on qualifications being referred to.

#### **Point 6**

This is a consequential amendment due to the changed use of the term 'recreational craft'. Since, by definition, recreational craft cannot be used on a commercial basis without losing their status as recreational craft, mention is no longer made, in line with the regulatory logic, of recreational craft when the commercial use of a watercraft previously built or dedicated for sports and leisure purposes is meant. With regard to the regulatory logic behind the legislation, see also the explanatory notes on Article 2(2)(2) and (3).

#### **Point 7**

This point contains the amendments to § 19 SeeSpbootV.

#### **Letter (a)**

See the explanatory notes on point 1.

#### **Letter (b) and (c)**

The new version takes into account the definitional differentiation between recreational craft and watercraft previously built or dedicated for sports and leisure purposes in subsequent commercial use. There is no intention to change the content of the regulation.

#### **Point 8**

Annex 4 is adapted in accordance with the previous points: In the case of subsequent commercial use, mention is no longer made of 'recreational craft'. Also see the explanatory notes on point 1 ff.

#### **Paragraph (3)**

Paragraph (3) contains the necessary consequential amendments to the schedule of fees and expenses in the Annex (to § 2) of the BMDV Special Fees Ordinance. These take into account the expansion of the certification requirement to include small craft under 8 metres in length brought about by the revision of Part 6 of Annex 1a SchSV.

## Point 1

The current provision on exemption from fees and expenses in point 3 is reproduced unchanged as point 3(a). The rule in the newly added letter (b) refers, with regard to the subject-matters of the regulation, to the exemption for public authority vessels inserted into the SchSV by Article 1(1) of this amending Ordinance: This covers vessels used for the performance of public authority tasks under the supervision of the Federal Government, a federal state (Land) or a municipality or a municipal association, which are not used for commercial purposes. Operators of these ships shall be exempted from fees for the issue of a safety certificate, including confirmation of the interim survey for small craft with a length of 3.60 to 8 metres.

The purpose of the exemption is to prevent the operators of small craft under 8 metres in length appointed by public authorities to carry out public authority tasks from being subjected to financial hardship as a result of the extension of the certificate obligation to include these vessels, thereby reducing their capacity to assist the authorities. This exemption from fees is intended to ensure the economic viability of a fleet of sufficient size for the tasks entrusted to it in the public interest. The provision thus makes an assessment within the meaning of § 9(4) of the Act on Fees and Expenses for Federal Services: This provision makes it possible – by way of derogation from the requirement of cost recovery in § 9(1) of the Act on Fees and Expenses for Federal Services – to provide for a fee exemption for reasons of public interest or equity.

## Point 2

Fee items 0301 and 0302 remain unchanged except for adding 'for vessels over 8 m in length' to the item described in column 2. The existing charges are thus distinguished from the two newly added ones and continue to apply to vessels which are already subject to certification before the amendment.

Newly added are items 0303 and 0304. Under § 1 in conjunction with § 3(2) subparagraph 1 BGeBG, they establish the applicant's obligation to pay fees for, first, the issue of a safety certificate before the vessel is put into service by BG Verkehr, including confirmation of the interim survey to be carried out (item 0303) and, second, for the issue by BG Verkehr of a safety certificate for existing ships by BG Verkehr and the confirmation of the interim survey to be carried out (item 0304). These are payments that are individually attributable, as the person concerned makes a request. The fees are levied on a cost-covering basis.

For item 0303 the following costs arise:

Item number	Org. unit	Designation	⊗ Time required in hours	Cost per component in euro
1	N	ZES examines application	1.50	179.55
2	ZP	Receives and edits report	0.17	20.35
3	ZP	Examines radio equipment report	0.17	20.35
4	N	Examines report	1.50	179.55
5	M	Examines report	1.00	119.70
6	F	Examines report	0.25	29.93
7	S	Examines report	1.00	119.70
8	ZP	Forwards request for remedial action to shipowners	0.25	29.93
9	ZP	Prepares certificate	0.17	20.35
10	ZP	Examines certificate	0.17	20.35

11	ZP	Issues certificate	0.08	9.58
		<b>Total</b>	<b>6.26</b>	<b>749.34</b>

For item 0304 the following costs arise:

Item number	Org. unit	Designation	⊗ Time required in hours	Cost per component in euro
1	N	ZES examines application	1.00	119.70
2	ZP	Receives and edits report	0.17	20.35
3	ZP	Examines radio equipment report	0.17	20.35
4	N	Examines report	1.17	140.05
5	M	Examines report	0.50	59.85
6	F	Examines report	0.25	29.93
7	S	Examines report	0.50	59.85
8	ZP	Forwards request for remedial action to shipowners	0.25	29.93
9	ZP	Prepares certificate	0.17	20.35
10	ZP	Examines certificate	0.17	20.35
11	ZP	Issues certificate	0.08	9.58
		<b>Total</b>	<b>4.43</b>	<b>530.29</b>

### Point 3

Consequential amendment due to the abolition of equivalence checks brought about by Article 1(4)(b) and by Article 1(9)(c).

### Point 4

The editorial adjustments in fee items 2301 and 2302 are consequential amendments due to the amendments brought about by Article 1(11)(a)(bb) in Annex 2 to the Ship Safety Ordinance concerning the international sewage pollution prevention certificate.

### Article 3 (Entry into force)

Article 3 contains the provisions on entry into force in accordance with the first sentence of Article 82(2) of the Basic Law. A later date of entry into force, such as for a quarterly start, is not possible in view of the need for ship safety behind the amending rules. The implementation needs of operators and public authorities are taken into account through specific transitional arrangements.