



Isle of Man

Ellan Vannin

AT 6 of 2021

**INTERNATIONAL MARITIME
STANDARDS ACT 2021**



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**Isle of Man***Ellan Vannin*

INTERNATIONAL MARITIME STANDARDS ACT 2021

Signed in Tynwald: 18 May 2021
Received Royal Assent: 18 May 2021
Announced to Tynwald: 18 May 2021

AN ACT to provide for the allocation of specific responsibilities for discharging the Island’s obligations under international conventions relevant to the IMO Instruments Implementation Code; to provide a mechanism by means of which the extent of the Island’s compliance with relevant international conventions may be enhanced; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1 Short title

The short title of this Act is the International Maritime Standards Act 2021.

2 Commencement

- (1) This Act (except this section and sections 1 and 3) will come into operation on such day or days as the Council of Ministers may by order appoint.¹
- (2) An order under subsection (1) may make such consequential, incidental, supplemental and transitional provisions as appear to the Council of Ministers to be necessary or expedient for the purposes of the order.

3 Interpretation

- (1) In this Act —

“**assignee**” means a person to whom an assignment of responsibility is made by the Chief Secretary under section 4;

“**assignment**” means an assignment of responsibility, made by the Chief Secretary under section 4;

“**relevant international conventions**” means the international conventions, listed in Schedule 1, which —

- (a) have been duly extended to the Island by the United Kingdom and have entered into force for the Island, with or without reservations;
- (b) concern maritime safety and the prevention and control of marine pollution from ships; and
- (c) are relevant international conventions for the purposes of —
 - (i) Resolution A.1070(28) of the International Maritime Organization (“IMO”), adopted on 4 December 2013; and
 - (ii) the IMO Instruments Implementation Code, annexed to the said Resolution A.1070(28),

and includes any amendments made from time to time, and any Protocols, to any such convention listed in Schedule 1.

- (2) The Council of Ministers may by order amend Schedule 1, Schedule 2 or Schedule 3.

Tynwald procedure – approval required

4 Power to assign responsibilities

- (1) The Chief Secretary may, by means of a non-legislative public document made and signed by the Chief Secretary, from time to time assign to any person specified in subsection (3) the responsibility to perform any task or series of tasks which the Island has an obligation to perform under a relevant international convention.

This is subject to sections 5, 6 and 12, and to the succeeding provisions of this section.

- (2) An assignment under subsection (1) may —
 - (a) be for either a definite or an indefinite period;
 - (b) be to a specific person or group of persons; or
 - (c) be subject to specified conditions.
- (3) The persons specified for the purposes of subsection (1) are —
 - (a) any Department or Statutory Board;
 - (b) any body corporate that, despite not being either a Department or a Statutory Board, carries out or assists in carrying out any of the functions of government in the Island; and
 - (c) any private person who —
 - (i) has, in writing to the Chief Secretary, expressed willingness to perform the task or tasks; and
 - (ii) the Chief Secretary is satisfied has the capacity to competently perform the task or tasks.

- (4) For the avoidance of doubt, compliance with the Island's obligations under relevant international conventions is hereby designated a corporate matter under the delegated authority of the Chief Secretary.

5 Duty to seek advice

- (1) Before making an assignment, the Chief Secretary must seek and have received the written advice of the Attorney General regarding —
 - (a) the suitability of the proposed assignee;
 - (b) the proposed extent and duration of the assignment;
 - (c) the terms on which the assignment is to be made; and
 - (d) any conditions to which the assignment is subject.
- (2) It is the duty of the Attorney General to promptly provide, in writing, to the Chief Secretary any advice the Chief Secretary requests under subsection (1).
- (3) The Chief Secretary must have regard to the Attorney General's advice.

6 Duty to consult

- (1) Before making an assignment, the Chief Secretary must consult such person or persons appearing to the Chief Secretary to have considerable experience in, and a high level of technical knowledge of, the field of maritime safety and the prevention and control of marine pollution from ships.
- (2) The Chief Secretary must have regard to the views expressed by the person or persons whom the Chief Secretary consults in accordance with subsection (1).

7 Effect of assignment

- (1) An assignment has the force of law.
- (2) The Chief Secretary must impose such administrative sanction as he or she considers appropriate on an assignee who fails to perform the assigned task or tasks.

This is subject to section 8.

8 Powers and duties of assignee

- (1) An assignee must promptly, in writing to the Chief Secretary, acknowledge the assignment.
- (2) An assignee may not refuse an assignment. This is subject to subsection (3).
- (3) Despite subsection (2), —

- (a) an assignee may, when complying with subsection (1) or at any time thereafter, provide the Chief Secretary with a written notice (a “**notification of constraint**”) detailing any constraint the person has which the person contends is likely to compromise the person’s ability to competently perform the assigned task or tasks, or to perform it or them in a timely manner; or
 - (b) a private person who, under section 4(3)(c)(i), has expressed willingness may at any time in writing to the Chief Secretary revoke that willingness; upon the doing of which —
 - (i) the assignment becomes null and void;
 - (ii) the private person’s right to recover payment on a *quantum meruit* basis remains unaffected; and
 - (iii) the right of the Treasury to recover from the private person any sum of money that the Treasury advanced to the private person pursuant to the assignment, but which the private person has not used in the agreed manner or at all, remains unaffected.
- (4) Without limiting subsection (3)(a), an assignee must —
- (a) specify in a notification of constraint any financial resource constraint it may have; and
 - (b) adequately substantiate the assertion that it has such a constraint.

9 Duties arising from submission of notification of constraint

- (1) Where the Chief Secretary receives a notification of constraint, the Chief Secretary must give due consideration to its contents and, where appropriate, —
 - (a) act in accordance with subsection (2), in which case the assignment will not take effect unless there is occasion for section 10(1) to be complied with;
 - (b) modify the terms or conditions of the assignment, in consultation with the assignee; or
 - (c) release the assignee from the assignment and assign the task or tasks in question to another person.
- (2) Where the notification of constraint alleges a financial resource constraint, the Chief Secretary may request that the Council of Ministers issue to the Treasury, in the form specified in Schedule 3, a written instruction to provide the assignee with a specified sum of money that the Chief Secretary, following consultation with the assignee, considers adequate to enable the assignee to perform the assigned task or tasks.
- (3) Upon receipt of a request from the Chief Secretary under subsection (2), the Council of Ministers —

- (a) may seek advice on how to proceed, from any person they consider competent to advise them; and
 - (b) must carefully consider the request.
- (4) Having complied with subsection (3), the Council of Ministers must accede to the request if, in all the circumstances of the case, they consider doing so prudent.
- (5) Following consultation with the Chief Secretary, the Council of Ministers may at any time amend, supersede or revoke its written instruction to the Treasury.

10 Treasury to act on written instruction

- (1) The Treasury must –
- (a) in writing to the Chief Secretary and the Council of Ministers, acknowledge receipt of a written instruction given to it by the Council of Ministers under section 9(4) (“**the written instruction**”); and
 - (b) comply with the written instruction.
- (2) In complying with the written instruction, the Treasury may decide to disburse the sum of money incrementally, in accordance with a schedule of work agreed between the Treasury, the assignee and the Chief Secretary.
- (3) A schedule of work and timescales for incremental disbursement of funds, referred to in subsection (2), must be reduced to writing and be signed by the Treasury, the assignee and the Chief Secretary.

11 Record keeping

The parties to whom this Act applies must ensure that they retain written records of –

- (a) all documents produced pursuant to this Act; and
- (b) the reasons for the production of those documents.

12 Effect of assignment on legislation

- (1) Before making an assignment, the Chief Secretary must consider any legislation pursuant to which the performance of a task that the Chief Secretary proposes to assign is already the responsibility of a particular person.
- (2) Where any legislation to which subsection (1) applies is an Act of Tynwald, any assignment made by the Chief Secretary must not conflict with the provisions of that Act.

- (3) Where any legislation to which subsection (1) applies is a statutory document, the Chief Secretary may, by means of an assignment, amend that statutory document.
- (4) The Chief Secretary's power to make an assignment does not affect —
- (a) the power of the Department for Enterprise under —
 - (i) section 1 of the *Merchant Shipping Act 1985*; or
 - (ii) section 14 of the *Oil Pollution Act 1986*; or
 - (b) the power of the Department of Infrastructure under section 6 of the *Oil Pollution Act 1986*.

SCHEDULE 1**RELEVANT INTERNATIONAL CONVENTIONS**

[Section 3]

1. International Convention for the Safety of Life at Sea 1974, as amended (“SOLAS 1974”)
2. International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as further modified by the Protocol of 1997, as amended (“MARPOL”)
3. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (“STCW 1978”)
4. International Convention on Load Lines, 1966
5. International Convention on Tonnage Measurement of Ships, 1969 (“Tonnage 1969”)
6. Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (“COLREGS 1972”)

SCHEDULE 2

FORM OF NON-LEGISLATIVE PUBLIC DOCUMENT

[Section 3(2)]

Allocation of responsibilities by Chief Secretary

1.	Allocation of responsibilities to:	Body	Tick
		Isle of Man Ship Registry	
		DOI Division of Harbours	
		Other (Specify)	
2.	Allocation Reference Number:		
3.	Allocation under which Convention:	The International Convention for the Safety of Life at Sea 1974, as amended ("SOLAS 1974")	
		The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as further amended by the Protocol of 1997, as amended ("MARPOL")	
		The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW 1978")	
		The International Convention on Load Lines, 1966	
		The International Convention on Tonnage Measurement of Ships, 1969 ("Tonnage 1969")	
		The Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended ("COLREGS 1972")	
		Other – please specify:	
4.	Specific allocation:	Specify overarching responsibility and include relevant Convention reference:	
5.	Date by which the Body must meet obligations:	Specify date:	

6.	Date by which the Body must formally accept allocation:	Specify date:	
7.	Date by which first update report is required to be submitted to Chief Secretary	Specify date:	
8.	Sanctions to be employed by Chief Secretary is allocations are not being fulfilled	Specify sanctions:	
9.	Date of review by Chief Secretary of progress	Specify date (not later than 12 months from initial allocation):	

Dated this ___ day of _____, 20___

Chief Secretary

SCHEDULE 3

FORM OF WRITTEN INSTRUCTION TO THE TREASURY

[Sections 3(2) and 9(2)]

Council of Ministers' Written Instruction to the Treasury

[Issued under section 9 of the *International Maritime Standards Act 2021*]

1.	Financial assistance required to discharge responsibility under which Convention:	The International Convention for the Safety of Life at Sea 1974, as amended ("SOLAS 1974")	
		The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as further amended by the Protocol of 1997, as amended ("MARPOL")	
		The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW 1978")	
		The International Convention on Load Lines, 1966	

		The International Convention on Tonnage Measurement of Ships, 1969 (“Tonnage 1969”)		
		The Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (“COLREGS 1972”)		
		Other – please specify:		
2. Specific financial request to assist in complying with the obligation:				
		Specify overarching responsibility and include relevant Convention reference:		
3. Notification of constraint received from:	Isle of Man Ship Registry			
	DOI Division of Harbours			
	Other (Specify)			
	Date received by Chief Secretary:			
4.	Evidence supplied by body (in 3) to adequately substantiate the assertion that it has such a financial constraint (s8(4)): This evidence must include low, medium and high costs (where possible) to discharge obligation and risks associated with each.	Provide brief description here, and attach to this form any necessary supporting document(s).		
5.	Previous budget bid submitted by body (in 3):	Yes (reference):	No (provide reason here and, if needed, on attached document(s)):	
6.	Internal / External advice sought by Council of Ministers to consider (4):	Yes:	No:	
7.	Date by which the Body must meet obligations (in 2):	Specify date:		
8.	Date by which the Body (in 3) must formally accept allocation from Council of Ministers:	Specify date:		

9.	Amount of financial assistance to be given from Treasury to body in (3):	Total amount of money:	
10.	Date by which a schedule of works and timescales to disburse the sum of money incrementally must be agreed between Treasury, the assignee and the Chief Secretary (S10(2,3)) – if appropriate	Specify date:	

ENDNOTES

Table of Endnote References

¹ ADO – Whole Act in operation 23/06/2021 [SD2021/0183].