

## **STATUTORY INSTRUMENTS**

**S.I. No. 921 of 2005**

**Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005**

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**S.I. No. 921 of 2005**

**Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005**

I, Pat the Cope Gallagher, Minister of State at the Department of Communications, Marine and Natural Resources, in exercise of the powers conferred on me by sections 20 (as amended by section 47(1) of the Maritime Safety Act 2005 (No. 11 of 2005)) and 27 (as amended by section 47(2) of that Act) of the Merchant Shipping Act 1992 (No. 2 of 1992), the Marine (Delegation of Ministerial Functions) (No. 2) Order 2004 (S.I. No. 703 of 2004) and the Marine (Delegation of Ministerial Functions) (No. 2) Order 2005 (S.I. 346 of 2005), hereby make the following regulations:

***Citation***

1. These Regulations may be cited as the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005.

***Definitions***

2. In these Regulations -

“fast power craft” means a pleasure craft, other than a personal watercraft, the principal means of propulsion of which is derived from a mechanical power source and which attains or can attain a speed through or over water equal to or exceeding 17 knots;

“decked craft” means a pleasure craft which is not an open craft;

“length overall” means the overall length of a craft, extending from the most extreme point aft to a similar point at the forward end, incorporating any overhang of stern, or rake of stem;

“open craft” means a pleasure craft which does not have a cabin or below deck facilities for the use of persons and where seating, or any place on the craft used for seating, is exposed or partially exposed to the elements;

“pleasure craft” includes personal watercraft and fast power craft;

“suitable personal flotation device” means a personal flotation device—

(a) which has on it the CE conformity marking consisting of the initials “CE” taking the form of the specimen set out in Annex IV to Council Directive 89/686/EEC of 21 December 1989<sup>1</sup> (as amended by Council Directive 93/68/EEC of 22 July 1993<sup>2</sup> and Council Directive 96/58/EC of the European Parliament and the Council of 3 September 1996<sup>3</sup>).

(i) which is sufficient to give a person using it a positive buoyancy in waters which are likely to be encountered where the vessel on which it is required to be used or to be available for use is reasonably likely to be,

(ii) which is appropriate to the body weight of the person who is to wear it,

and/or

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<sup>1</sup> OJ. No. L.399,30.12.89, p. 18

<sup>2</sup> OJ. No. L.220, 30.8.93, p. 1

<sup>3</sup> OJ. No. L.236, 18.9.96, p. 44

(b) which has on it the mark of conformity which must take the form of the specimen set out in Annex D to Council Directive 96/98/EC of 20 December 1996<sup>4</sup>(as amended by Commission Directive 98/85/EC of 11 November 1998<sup>5</sup>, Commission Directive 2001/53/EC of 10 July 2001<sup>6</sup>, Commission Directive 2002/75/EC of 2 September 2002<sup>7</sup>, Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002<sup>8</sup> corrected by Corrigendum of 10 September 1997<sup>9</sup> and Corrigendum of 29 August 1998<sup>10</sup>).

### ***Application***

3. (1) These Regulations apply to pleasure craft being operated in Irish waters and to –
- (a) any person on board such craft, and
  - (b) any person being towed by such craft or on board a vessel or object of any kind, being towed by such craft.
- (2) These Regulations (other than Regulations 8 and 9) do not apply to a pleasure craft being used for rescue or other emergency purposes or for law enforcement purposes.
- (3) These Regulations (other than Regulations 8 and 9) do not apply to rowers in boats which are –
- (a) designed and specifically used for rowing in boat races and which are capable of being entered into regattas or other events recognised by the Irish Amateur Rowing Union,

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<sup>4</sup> OJ. No. L 46, 17.2.1997, p. 25

<sup>5</sup> OJ. No. L 315, 25.11.98, p. 14

<sup>6</sup> OJ. No. L 204, 28.7.2001, p. 1

<sup>7</sup> OJ. No. L 254, 23.9.2002, p. 1

<sup>8</sup> OJ. No. L 324, 29.11.2002, p. 53

<sup>9</sup> OJ. No. L 246, 10.9.1997, p.7

<sup>10</sup> OJ. No. L241, 29.8.1998, p.27

and

(b) of a design and type in respect of which events are held in the Olympic Games or other international rowing regattas.

***Age restrictions on operation or control of pleasure craft***

4. (1) The master or owner of a personal watercraft or a fast power craft shall take all reasonable steps to ensure that a person who has not attained the age of 16 years does not operate or control the craft.

(2) The master or owner of a pleasure craft powered by an engine with a rating of more than 5 horse power or 3.7 kilowatts shall take all reasonable steps to ensure that a person who has not attained the age of 12 years does not operate or control the craft.

***Carriage of personal flotation devices on pleasure craft (other than personal watercraft)***

5. The master or owner of a pleasure craft (other than a personal watercraft) shall ensure, that there are, at all times, on board the craft, sufficient suitable personal flotation devices for each person on board.

***Wearing of personal flotation devices on pleasure craft (other than personal watercraft)***

6. (1) A person on a pleasure craft (other than a personal watercraft) of less than 7 metres length overall shall wear a suitable personal flotation device while on board an open craft or while on the deck of decked craft, other than when the craft is made fast to the shore or at anchor.

(2) The master or owner of a pleasure craft (other than a personal watercraft) shall take all reasonable steps to ensure that a person who has not attained the age of 16 years complies with paragraph (1) of this Regulation.

(3) The master or owner of a pleasure craft (other than a personal watercraft), which is not a craft referred to in paragraph (1) of this Regulation, shall take all reasonable steps to ensure that a person who has not attained the age of 16 years wears a suitable personal flotation device while on board an open craft or while on the deck of a decked craft, other than when it is made fast to the shore or at anchor.

(4) The master or owner of a pleasure craft (other than a personal watercraft) shall take all reasonable steps to ensure that a person wears a suitable personal flotation device, at all times while –

(a) being towed by the craft, or

(b) on board a vessel or object of any kind which is being towed by the craft.

(5) This Regulation does not apply to a person on board a pleasure craft (other than a personal watercraft), which is not under way, when the person-

(a) is wearing, putting on, or taking off, scuba diving equipment,

or

(b) is about to engage in, or has just completed swimming (including snorkelling) from the craft.

***Wearing of personal flotation devices on personal watercraft***

7. (1) Every person on a personal watercraft shall wear a personal flotation device at all times while on board, or being towed in any manner by a personal watercraft.

(2) The master or owner of a personal watercraft shall take all reasonable steps to ensure that a person who has not attained the age of 16 years complies with paragraph (1) of this Regulation.

***Prohibition on operating pleasure craft while under influence of alcohol or drugs***

8. The master or owner of a pleasure craft, shall not, or shall not allow another to, operate or control or attempt to operate or control the craft while he or she or the other is under the influence of alcohol or drugs or any combination of drugs or of drugs and alcohol to such an extent as to be incapable of having proper control of the craft.

***Control of consumption of alcohol or drugs on board pleasure craft***

9. (1) A person on a pleasure craft shall not consume alcohol or drugs or any combination of drugs or of drugs and alcohol while on board the craft in circumstances which could affect the safety of persons or create a disturbance on board the craft or affect the safety of other persons using Irish waters or constitute a nuisance to such persons.

(2) A person being towed or on board a vessel or object of any kind which is being towed by a pleasure craft shall not consume alcohol or drugs or any combination of drugs or drugs and alcohol.

(3) The master or owner of a pleasure craft shall take all reasonable steps to ensure that all persons comply with paragraphs (1) and (2) of this Regulation.

***Application of section 27 of Merchant Shipping Act 1992***

10. (1) Section 27 (as amended by section 47(2) of the Maritime Safety Act 2005 (No. 11 of 2005)) of the Merchant Shipping Act 1992 (No. 2 of 1992) applies to these Regulations.

(2) The form set out in the Schedule to these Regulations is prescribed as the form of the notice to be served on a person in relation to an alleged offence under section 20 of the Merchant Shipping Act 1992 for contravening these Regulations.

***Revocation***

11. The Merchant Shipping (Pleasure Craft) (Lifejackets and Operation) (Safety) Regulations 2004 (S.I. No. 259 of 2004) are revoked.

**FIXED PAYMENT NOTICE IN RELATION TO AN ALLEGED OFFENCE UNDER SECTION 20 OF THE MERCHANT SHIPPING ACT 1992.**

To: .....

Address:

.....  
.....  
.....

It is alleged that you have committed an offence under section 20 of the Merchant Shipping Act 1992 Act at

.....  
on.....

A description of the alleged offence is given at reference number ..... overleaf

A prosecution in respect of the alleged offence will not be instituted during the period of 21 days beginning on the date of this notice, and if during that period you pay to:

.....  
.....  
.....<sup>1</sup>

the sum of €150<sup>2</sup> accompanied by this notice, a prosecution in respect of the alleged offence will not be instituted.

**SIGNED:**

.....  
*Authorised Officer*

**DATE:** .....

<sup>1</sup> Insert name of statutory authority to be paid and address where payment is to be made.

<sup>2</sup> Insert other amount if different amount is prescribed

## Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations

(S.I. No. 921 of 2005)

Regulation	Description of Alleged Offence	Ref. No.
4(1)	Permitting a person who has not attained the age of 16 years to operate or be in control of a personal watercraft or a fast power craft.	1
4(2)	Permitting a person who has not attained the age of 12 years to operate or be in control of a pleasure craft powered by an engine with a rating of greater than 5 horse power or 3.7 kilowatts.	2
5	Operating a pleasure craft (other than a personal watercraft) without sufficient suitable personal flotation devices for each person on board.	3
6(1)	Failing to wear a suitable personal flotation device while on board an open craft or on the deck of a decked craft (other than personal watercraft) of less than 7 metres in length overall which is not made fast to the shore or at anchor.	4
6(2)	Permitting a person who has not attained the age of 16 years not to wear a suitable personal flotation device while on board an open craft or whilst on the deck of a decked craft (other than a personal watercraft) of less than 7 metres in length overall which is not made fast to the shore or at anchor.	5
6(3)	Permitting a person who has not attained the age of 16 years not to wear a suitable personal flotation device while on board an open craft or while on the deck of a decked craft (other than a personal watercraft) which is not made fast to the shore or at anchor.	6
6(4)(a)	Permitting a person not to wear a personal flotation device while being towed by a pleasure craft (other than a personal watercraft).	7
6(4)(b)	Permitting a person not to wear a suitable personal flotation device while on board a vessel or object of any kind which is being towed by a pleasure craft (other than a personal watercraft).	8
7(1)	Failing to wear a suitable personal flotation device while on board, or being towed in any manner by, a personal watercraft.	9
7(2)	Permitting a person who has not attained the age of 16 years not to wear a suitable personal flotation device while on board, or being towed in any manner by, a personal watercraft.	10
8	Operating or controlling or attempting to operate or control a pleasure craft or permitting a person to operate or control or attempt to operate or control a pleasure craft while under the influence of alcohol or drugs to such an extent as to be incapable of having proper control of the craft.	11
9(1)	Consuming alcohol or taking of drugs on a pleasure craft in circumstances which could affect the safety of persons, or create a disturbance, on board the craft, or could affect the safety of others using Irish waters or constitute a nuisance to such others.	12
9(2)	Consuming alcohol or taking drugs while being towed by, or on board a vessel specifically designed to be towed or on an object of any kind which is being towed by, a pleasure craft.	13
9(3)	Permitting a person to consume alcohol or take drugs on a pleasure craft in circumstances which could affect the safety of persons, or create a disturbance, on board the craft, or could affect the safety of others using Irish waters or constitute a nuisance to such others or permitting a person to consume alcohol or take drugs while being towed by, or on board a vessel specifically designed to be towed or on an object of any kind which is being towed by, a pleasure craft.	14

GIVEN, under my hand,

22 December 2005

Pat the Cope Gallagher,

Minister of State at the Department of  
Communications, Marine and Natural Resources.

## **Explanatory Note**

(This Note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations replace the Merchant Shipping (Pleasure Craft) (Lifejacket and Operation) (Safety) Regulations, 2004 (S.I. No. 259 of 2004), so as to provide for an increase (from €127 to €150) in the fixed payment in lieu of prosecution, if appropriate, in relation to an alleged contravention of the Regulations. IMO SOLAS/EU Marine Equipment Directive (MED) marked personal flotation devices are included under the definition of a “suitable personal flotation device” in these Regulations.

Otherwise, the new Regulations continue in force the existing national provisions governing the operation of pleasure craft including personal watercraft, including provisions relating to age restrictions, the carriage and use of personal flotation devices and restrictions on the use of alcohol and drugs.

Section 47(2) of the Maritime Safety Act 2005 (No. 11) provides for a fixed payment of €150, or such other amount as may be prescribed by Ministerial Regulations, in relation to an alleged contravention of Regulations under section 20 of the Merchant Shipping Act 1992 (No. 2) (as amended by section 47(1) of the 2005 Act), in lieu of prosecution, if appropriate.