

## Order of the Ministry of Transport

(No. 7 [2008])

The Administrative Provisions on Safety of Yachts, which were adopted at the 8th executive meeting of the Ministry of Transport on July 8, 2008, are hereby promulgated and shall come into force as of January 1, 2009.

Minister Li Shenglin

July 22, 2008

### Administrative Provisions on Safety of Yachts

#### Chapter I General Provisions

Article 1 For purposes of regulating the administration of safety of yachts, ensuring the safety of waterborne human lives and properties, preventing and controlling water environment pollution from yachts and promoting the sound development of yacht industry, these Provisions are formulated in accordance with the laws and administrative regulations on the administration of safety of waterborne transport and on the prevention and control of water environment pollution from vessels.

Article 2 These Provisions shall apply to the administration of the safety of navigation, berthing and other activities of yachts and the prevention and control of pollution resulted therefrom within the territorial waters of the Peoples' Republic of China.

The term "yacht" as mentioned in these Provisions only refers to a motor-driven vessel that the owner uses for his own travel, recreation and other activities.

The term "club of yachts" as mentioned in these Provisions refers to an organization lawfully established for providing the members of the club of yachts with such services as keeping and utilizing yachts.

Article 3 The Maritime Safety Administration of the People's Republic of China shall, in a centralized manner, supervise and administer the waterborne transport safety of yachts and the prevention and control of water environment pollution from yachts throughout the country.

The maritime administrative departments at all levels shall, under the relevant functions, be responsible for administering and supervising the waterborne transport safety of yachts and the prevention and control of water environment pollution from yachts within their respective jurisdiction.

#### Chapter II Inspection and Registration

Article 4 A yacht shall be inspected by the vessel inspection institution under the yacht inspection provisions and norms approved or recognized by the Ministry of Transport and shall not be utilized unless a corresponding vessel inspection certificate is obtained.

Article 5 Where a yacht is under any of the following circumstances, an application shall be filed with the vessel inspection institution for an additional inspection:

1. Any accident occurs to it, which affects the seaworthiness of the yacht;
2. The class as indicated in the yacht inspection certificate is changed;
3. The certificate issued by the vessel inspection institution becomes invalid;
4. The owner or name or port of registry of the yacht is changed; or
5. The structure or important safety or anti-pollution device of the yacht is changed.

Article 6 A vessel nationality certificate shall be acquired for a yacht to sail or to be berthed in the territorial waters of the People's Republic of China. No yacht without such a nationality certificate shall sail or be berthed in the territorial waters of the People's Republic of China.

The owner of a yacht shall apply for registration of the vessel nationality upon the strength of the vessel inspection certificate and the certificate of title, and be issued a Vessel Nationality Certificate of the People's Republic of China by the maritime administrative department upon examination.

The registration of nationality of a yacht of 5 meters or shorter in length shall be handled by analogy to the preceding paragraph.

### Chapter III Training and Examination of Yacht Operators, and Issuance of Certificates

Article 7 A yacht operator shall undergo professional training and examination, have the professional knowledge and skills fitting the yacht to be operated and the water area in which the yacht is to sail, master the basic requirements for waterborne fire protection, lifesaving and emergency response, and acquire a yacht operator competence certificate issued by the maritime administrative department.

No one without a yacht operator competence certificate shall operate a yacht.

Article 8 To apply for a yacht operator competence certificate, an applicant shall meet the following requirements:

1. He has attained the age of 18 but is younger than 60;
2. He meets the navigation safety requirements for eyesight, color vision, hearing, oral expression and physical health; and
3. He has undergone the yacht operator training as required and has passed the examination.

Article 9 To apply for a yacht operator competence certificate, an applicant shall pass the examination organized by the maritime administrative department as authorized by the Maritime Safety Administration of the People's Republic of China.

To apply for a yacht operator competence certificate, an applicant shall go through the relevant formalities in the maritime administrative department of the place at which he accepted the training or took the examination, and submit an application and relevant materials certifying that he meets the requirements for obtaining a certificate.

If the maritime administrative department believes upon examination that an applicant meets the said requirements, it shall issue to him a yacht operator competence certificate of the corresponding class with a valid term of 5 years.

Article 10 The yacht operator competence certificates are classified into maritime yacht operator competence certificate and inland water yacht operator competence certificate.

Article 11 For a person who holds a maritime ship or inland water vessel captain or navigating officer competence certificate or pilot competence certificate, if he undergoes the corresponding training of actual operations under the outline of yacht operator examination, he may obtain a maritime yacht operator competence certificate or inland yacht operator competence certificate.

Article 12 Where a yacht operator competence certificate will expire in less than 6 months, the certificate holder shall apply to the original certificate-issuing maritime administrative department for going through the formalities for replacing the said certificate by a new one. If he meets the relevant requirements, the maritime administrative department shall issue to him a new yacht operator competence certificate of the same class and take back the old one.

Where a yacht operator competence certificate is lost or mutilated, the holder may, under the prescribed

procedures, apply to the maritime administrative department for a new one.

Article 13 Where a lawfully established institution intends to engage in the training of yacht operators, it shall meet the corresponding requirements and shall be subject to the approval of the Maritime Safety Administration of the People's Republic of China under the administrative provisions of the state on training of seamen.

#### Chapter IV Sailing and Berthing

Article 14 Before a yacht departs, the yacht operator shall carefully make a safety check so as to ensure the seaworthiness of the yacht.

Article 15 A yacht shall carry the relevant vessel certificate, documents and indispensable sailing references, and the sailing and other pertinent records shall be properly made.

A yacht shall carry radio communication devices to communicate with the local maritime administrative department and the yacht club and ensure the effective coast-based communication.

A yacht operator shall carry his yacht operator competence certificate when he operates a yacht.

Article 16 A fixed-term visa of 12 months shall, under the Rules on the Administration of Vessel Visas, be obtained for a yacht.

Article 17 A yacht shall sail within the seaworthy scope as indicated in its inspection certificate.

The yacht owner or the yacht club shall, prior to the first voyage of a yacht, report the water areas, in which the yacht is to sail, to the local maritime administrative department for record-filing. For each voyage of the yacht, if the yacht is to sail beyond the record-filing scope, the yacht owner or the yacht club shall, prior to its departure, report to the maritime administrative department the vessel name, voyage plan, list of yacht operators or passengers, and emergency contact information.

Article 18 When a yacht sails, it shall abide by the following provisions besides the collision prevention rules and the special provisions on navigation as promulgated by the local maritime administrative department:

1. It shall avoid sailing in bad weather or in other circumstances endangering the navigation safety.
2. It shall avoid sailing in water areas prescribed as ship routes, water areas near major sea routes, anchorage ground, aquatics breeding areas, ferries, intensive traffic areas and other water areas under traffic control. If it is really necessary for it to enter into the aforesaid water areas, it shall follow the instructions of the maritime administrative institution and abide by the provisions on speed limit. It shall not sail in any restricted navigation area or safe operation area.
3. It shall not sail at night if it has no signal light or does not meet other night navigation requirements.
4. It shall not sail by carrying passengers in excess of the ratified number.

Article 19 No yacht operator may operate a yacht after drinking alcohol or while tired.

Article 20 A yacht shall be berthed in a berthing water area or a berth exclusive for yachts as announced by the maritime administrative institutions.

The berthing water areas or berths exclusive for yachts shall conform to the requirements for safe berthing, wind avoiding and facilitating people's boarding and leaving a yacht safely.

If a berthing water area exclusive for yachts belongs to a port, it shall conform to the port plan.

Article 21 Where a yacht needs to be berthed temporarily during its voyage, its operator shall choose a water area in which it will not hamper other vessels' navigation, berthing and operation. No yacht shall be berthed near a

major sea route, anchorage ground, any restricted navigation area, safe operation area, ferries and any water areas where berthing is prohibited as announced by the maritime administrative department.

Article 22 To build a yacht dock, bulwark or mooring facilities in a water area of a port, the applicant shall, under the Port Law, go through the corresponding licensing formalities.

Article 23 Where a yacht operating an international voyage enters and leaves a port of the People's Republic of China, it shall go through relevant formalities under the provisions of the state on vessels entering/leaving the ports.

Article 24 No yacht may, in violation of any law, regulation or rule on prevention and control of pollution from vessels, drain oil substances, living sewage, garbage or other toxic and hazardous substances into any water area.

A yacht shall be equipped with necessary waste oil and sewage collection devices, garbage storage containers and correctly use them.

The wastes from a yacht such as waste storage batteries, oil substances and living garbage shall be delivered on shore for disposal and for which records shall be made.

## Chapter V Safety Guarantee

Article 25 The owner of a yacht shall be responsible for the safety and pollution prevention of the yacht. He shall be responsible for the daily safety management and maintenance of the yacht so as to keep it in a sound safety and technical condition and ensure the safety of yacht in sailing and berthing, and the safety of passengers on board.

To authorize a yacht club to keep a yacht, the yacht owner shall sign an agreement with the yacht club, expressly stipulating the responsibilities of both parties in the navigation and berthing safety of the yacht, routine maintenance as well as the administration of safety and pollution prevention.

The yacht club shall, under provisions of the maritime administrative department and the stipulations made by it and the yacht owner, undertake the responsibilities for yacht safety and pollution prevention.

Article 26 A yacht club shall have the legal person qualifications and have the following safety and pollution prevention capabilities:

1. Having formulated rules on the administration of yacht safety and pollution prevention and having staffed full-time managerial personnel;
2. Having a safe berthing water area for yachts, having facilities which can ensure the safety of yachts and prevent and control pollution from yachts, and having installed waterborne safety communication facilities and equipment;
3. Having facilities and capacity for doing the routine check, repair and maintenance of yachts;
4. Being capable of collecting wastes, residual oil and garbage from yachts; and
5. Having safety and pollution prevention measures and emergency plans and having emergency salvage capabilities.

Article 27 A yacht club shall, after registration, report to the local maritime safety administration directly under the Ministry of Transport or to the provincial local maritime safety administration for record-filing.

The local maritime safety administration directly under the Ministry of Transport or the provincial local maritime safety administration shall inspect the safety and pollution prevention capabilities of the yacht club reported for record-filing. If the yacht club has the capabilities as prescribed in Article 26, it shall finish the record-filing and make an announcement thereon.

Article 28 A yacht club shall perform the following safety obligations for its members and the yachts under its management:

1. To publicize and offer training and education on waterborne transport safety and pollution prevention knowledge and emergency response to the yacht operators and passengers;
2. To urge the yacht operators and passengers to abide by the administrative provisions on waterborne transport safety and pollution prevention, and implement the relevant measures;
3. To ensure the safety of yachts in the berthing water areas or berths;
4. To inspect whether the yachts and yacht operators hold certificates so as to ensure that yachts and yacht operators hold corresponding valid certificates during their voyage;
5. To offer to yachts weather and hydrological information, notices (warnings) announced by the maritime administrative department and other information services. In the case of bad weather and other conditions improper for sailing or in the event that the maritime administrative institution issues a warning to forbid navigation, it shall stop yachts from sailing and notify yachts which have set out on a voyage to return;
6. To collect the information about each departure voyage, return voyage and passengers and make records for inspection;
7. To keep smooth communication between it and yachts and the maritime administrative department; and
8. Under the emergency plan as filed in the maritime administrative department, to regularly organize emergency drills relating to internal management, and emergency drills in which its members are to participate.

Article 29 A yacht shall, at an eye-catching place, bear indications of the telephone number exclusive for salvage, the waterborne safety channel and instructions announced by the local maritime administrative department, etc.

Article 30 In the event that a yacht encounters a danger or a waterborne traffic accident or pollution accident occurs in a yacht, the operators and other passengers of the yacht, the yacht club as well as the vessel or person who finds the danger or accident shall report it to the maritime administrative department in no time. A yacht club shall immediately start the emergency plan. Prior to the arrival of salvage, the persons on the yacht shall try their best to save themselves.

Where an operator or any other passenger of a yacht finds, during the navigation or berthing, any waterborne traffic accident, pollution accident, information for help or violation, he shall timely report it to the maritime administrative department. If it is necessary to offer help, the yacht shall try its best to rescue the persons in danger provided that its own safety will not be seriously endangered.

## Chapter VI Supervision and Inspection

Article 31 The maritime administrative department shall supervise and inspect the yachts, yacht clubs and yacht operator training institutions according to law. The yacht clubs and yacht owners shall cooperate in the supervision and inspection and timely rectify and eliminate defects and hidden risks in safety they found.

Article 32 Where a maritime administrative department finds that any yacht violates the waterborne transport safety administration and the administration order of prevention and control of environment pollution from vessels, it shall order the yacht to make a correction immediately. If the yacht fails to make a correction or if the circumstance is serious, the maritime administrative department may order it to temporarily suspend the voyage, change the voyage, navigate towards a designated place, or tow it away by force, or prohibit it from entering or leaving the port.

Article 33 Where a maritime administrative institution finds that a yacht club does not have the safety and pollution prevention and control capabilities any longer, it shall order it to make a rectification within a time limit. If it fails to make a rectification or if the circumstance is serious, it may cancel its name from the announced directory of yacht clubs, which has been filed for record.

Article 34 To conduct a supervision and inspection, the functionaries of the maritime administrative department shall show their law enforcement certificate to certify their identities.

## Chapter VII Legal Liabilities

Article 35 Any institution that, in violation of these Provisions, engages in the training of yacht operators without a yacht operator training license shall be ordered to make a correction by the maritime administrative department, and shall be fined not less than 50, 000 but not more than 250, 000 yuan. If there are any illegal gains, the illegal gains shall be confiscated.

Article 36 Where a yacht operator training institution commits any of the following violations, the maritime administrative department shall order it to make a correction, fine it not less than 20, 000 yuan but not more than 100, 000 yuan. If the circumstance is serious, it shall punish it by temporarily detaining its training license for not less than 6 months but not more than 2 years or even revoking its training license:

1. Failing to offer trainings under the requirements in these Provisions and the yacht operator training outline, or lowering the training standards without approval; or
2. Offering trainings of low quality and failing to meet the prescribed requirements.

Article 37 Where a yacht sailing at sea, in violation of these Provisions, does not carry a qualified inspection certificate, registration certificate and indispensable navigation materials, the maritime administrative department shall order it to make a correction and may fine it 1, 000 yuan or less. If the circumstance is serious, the maritime administrative department has the power to order it to stop its voyage. For a yacht operator, it may fine him 1, 000 yuan or less and detain his yacht operator competent certificate for 3-12 months.

Where a yacht sailing in inland waters, in violation of these Provisions, does not carry a qualified inspection certificate or registration certificate, it shall be ordered to stop the voyage by the maritime administrative department. If it refuses to stop, the yacht shall be detained temporarily. If the circumstance is serious, it shall be confiscated.

Article 38 Where a yacht operator, in violation of these Provisions, does not carry a qualified competence certificate in operating a yacht, the maritime administrative department shall order him to make a correction and fine him 2, 000 yuan or less.

Article 39 Where a yacht operator obtains a competence certificate by deception or bribery or other improper means, the maritime administrative department shall revoke his competence certificate and fine him not less than 2, 000 yuan but not more than 20, 000 yuan.

Article 40 Where a yacht, in violation of these Provisions, commits any of the following acts, the maritime administrative department shall order it to make a correction and fine him 1, 000 yuan or less:

1. It fails to be berthed in an exclusive berthing water area or berth or to comply with the requirements in these Provisions on temporary stop;
2. It sails in a water area beyond the record-filing scope, but the yacht owner or yacht club fails to, prior to the departure, submit the yacht name, navigation plan, name list of the yacht operators or passengers, emergency contact information, etc. to the maritime administrative department for record-filing.

Article 41 Any violation of these Provisions shall be punished under relevant laws, administrative regulations, rules and regulations.

Article 42 Where a functionary of the maritime administrative department neglects his duties, seeks private benefits or abuses his power, he shall be given an administrative sanction.

## Chapter VIII Supplementary Provisions

Article 43 To engage in commercial transport, a yacht shall, under relevant administrative provisions of the state on relevant vessels for business operations, undergo the formalities for vessel inspection, registration and vessel

business operation licensing.

Article 44 A yacht shall, under relevant provisions of the state, pay the corresponding vessel taxes and fees.

Article 45 A yacht limited to carry 12 passengers or more shall be subject to the safety supervision and administration on passenger vessels.

Article 46 These Provisions shall come into force as of January 1, 2009.