
STATUTORY INSTRUMENTS

1999 No. 1869

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Counting and Registration of
Persons on Board Passenger Ships) Regulations 1999**

<i>Made</i>	- - - -	<i>30th June 1999</i>
<i>Laid before Parliament</i>		<i>1st July 1999</i>
<i>Coming into force</i>	- -	<i>22nd July 1999</i>

The Secretary of State for the Environment, Transport and the Regions, after consulting with the persons referred to in section 86(4) of the Merchant Shipping Act 1995⁽¹⁾, in exercise of the powers conferred by sections 85(1)(a) and (b), (3), (5) to (7) and 86(1) of that Act⁽²⁾, and of all other powers enabling him in that behalf, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999 and shall come into force on 22nd July 1999.

Revocations

2. The following Regulations are hereby revoked—

- (a) the Merchant Shipping (Passenger Boarding Cards) Regulations 1988⁽³⁾;
- (b) the Merchant Shipping (Passenger Boarding Cards) (Application to non-UK Ships) Regulations 1988⁽⁴⁾;
- (c) the Merchant Shipping (Passenger Counting and Recording Systems) Regulations 1990⁽⁵⁾.

(1) 1995 c. 21.

(2) Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8. Sections 85 and 86 are applied to hovercraft by the Hovercraft (Application of Enactments) Order 1989, S.I.1989/1350.

(3) S.I. 1988/191.

(4) S.I. 1988/641.

(5) S.I. 1990/659.

Interpretation**3.—(1)** In these Regulations—

“appropriate search and rescue services” means, in relation to a ship involved in an emergency, the search and rescue services for the area in which the ship is located;

“Community ship” means a ship which is registered in, or which is entitled to fly the flag of, a member State;

“the Directive” means Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the member States of the Community⁽⁶⁾;

“international voyage” means a voyage from a country to which the International Convention for the Safety of Life at Sea applies⁽⁷⁾ to a port outside that country, or conversely;

“landing point” means any berth, excursion point, floating pier or stage, link span, pier, port, stop or anchorage point from or to where passengers are embarked or disembarked;

“Maritime and Coastguard Agency” means the executive agency of the Department of the Environment, Transport and the Regions so named;

“Merchant Shipping Notice” means a Notice described as such, issued by the Maritime and Coastguard Agency; and a reference to any particular Merchant Shipping Notice includes a reference to any document amending or replacing that Notice;

“mile” means a nautical mile of 1852 metres;

“passenger registrar” means the person appointed by the owner of a ship pursuant to regulation 8(1)(b) below;

“passenger ship” means any ship carrying more than 12 passengers;

“person” means any person on board a ship irrespective of their age;

“protected sea area” means a sea area sheltered from open sea effects where a ship is at no time more than six miles from a place of refuge where shipwrecked persons can land and in which the proximity of search and rescue facilities is ensured;

“regular community service” means a regular service in a sea area where the annual probability of the significant wave height exceeding two metres is less than 10% and—

- (a) the voyage does not exceed thirty miles or thereabouts from the point of departure; or
- (b) the primary purpose of the service is to provide regular links to outlying communities for customary purposes;

“regular service” means a series of ship crossings operated so as to serve traffic between the same two or more ports either—

- (a) according to a published timetable; or
- (b) with crossings so regular or frequent that they constitute a recognisable systematic series;

“search and rescue services” means the search and rescue services responsible for the initiation and co-ordination of all maritime search and rescue activity required to provide assistance in the event of an emergency involving a ship or its aftermath;

“ship” includes hovercraft;

“United Kingdom passenger ship” means a passenger ship which is a United Kingdom ship;

“voyage” includes an excursion.

⁽⁶⁾ OJ L188, 2.7.98, p. 35.

⁽⁷⁾ Cmnd. 7874.

(2) Where a ship is managed or operated by a person other than the owner (whether on behalf of the owner or some other person, or on his own behalf), a reference in these Regulations to the owner shall be construed as including a reference to that other person.

(3) Any approval or exemption given pursuant to these Regulations shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

Application

4.—(1) These Regulations shall apply to any—

- (a) United Kingdom passenger ship wherever it may be; and
- (b) other passenger ship while it is within United Kingdom waters.

(2) These Regulations shall not apply to any—

- (a) ship of war;
- (b) troop ship; or
- (c) pleasure yacht unless it is or will be crewed and carry more than 12 passengers for commercial purposes.

Passenger counting

5.—(1) The owner of any passenger ship shall ensure that, in respect of any United Kingdom passenger ship when it leaves any landing point and in respect of any other passenger ship when it leaves any landing point in the United Kingdom, there is a system capable of counting all persons on board which—

- (a) in the case of a passenger ship of Class II or II(A) within the meaning of the Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998⁽⁸⁾, in respect of passengers, uses a system of individual passenger boarding cards;
- (b) conforms to the requirements of paragraphs (2) to (5) below and Merchant Shipping Notice M 1729; and
- (c) is approved by the Secretary of State.

(2) The system of counting established pursuant to paragraph (1) above shall be such that—

- (a) all persons boarding such a ship at a landing point at the beginning of a voyage are counted individually on, or just prior to, boarding and, as the case may be—
 - (i) all persons disembarking at subsequent landing points, during the course of a voyage, are counted individually as they disembark;
 - (ii) all persons boarding at subsequent landing points, during the course of a voyage, are counted individually on, or just prior to, boarding; and
 - (iii) the number of persons remaining on board at each landing point is determined; or
- (b) the number of persons is determined and recorded according to an alternative method approved by the Secretary of State, which shall be of equivalent effectiveness to the system set out in paragraph (2)(a) above.

(3) If the counting system established in respect of a passenger ship pursuant to paragraph (1) above includes a system of individual passenger boarding cards no passenger shall be permitted to board the ship unless he has been issued with an individual boarding card.

⁽⁸⁾ S.I. 1998/2514.

(4) Immediately before a passenger ship leaves any landing point the total number of persons on board at that time as determined by means of the counting system shall be communicated to the master of the ship and the passenger registrar.

(5) If, in respect of any person on board a ship, any person has declared a need for special care or assistance in emergency situations, the owner shall ensure that such information is properly recorded and communicated to the master of the ship.

(6) No passenger ship shall leave any landing point if—

- (a) the requirements of paragraphs (4) or (5) above have not been complied with; or
- (b) the total number of persons on board the ship exceeds the number of persons the ship is permitted to carry.

(7) The arrangements made in pursuance of the requirements in paragraph (1) above shall be described in written instructions which shall be kept on board the ship at all times in the custody of the master.

Additional requirements for voyages of more than 20 miles

6.—(1) This regulation shall apply to—

- (a) any United Kingdom passenger ship leaving any landing point—
 - (i) inside the territory of the European Community on a voyage of more than 20 miles from that landing point; or
 - (ii) outside the territory of the European Community on an international voyage; and
- (b) any other passenger ship leaving any landing point in the United Kingdom on a voyage of more than 20 miles from that landing point.

(2) The owner of any passenger ship to which this regulation applies shall ensure that, in respect of any voyage on or after the 1st January 2000—

- (a) the information specified in paragraph (3) below is collected, in relation to each person on board, before the ship departs from the landing point, and
- (b) that information is—
 - (i) communicated to the passenger registrar within 30 minutes of the ship's departure from the landing point; and
 - (ii) in respect of any such information as is specified in sub-paragraph (e), communicated to the master of the ship before the ship leaves the landing point.

(3) The information referred to in paragraph (2) above is, in relation to each person on board the ship—

- (a) family name;
- (b) forenames or initials;
- (c) gender;
- (d) subject to paragraph (4) below, an indication of the category of age (such category being either adult, child or infant) to which the person belongs or the age or the year of birth of the person; and
- (e) if volunteered by a person, any information concerning the need for special care or assistance in emergency situations.

(4) If the information in relation to a person indicates the category of age to which the person belongs but does not indicate that person's age or year of birth—

- (a) the information must be accompanied by an indication of the age range used to define each category, and

- (b) the age range used must be the age range used by the system for the registration of the information established in accordance with regulation 8(1) below.

Non-Community ships on voyages from outside the European Community to the United Kingdom

7. In respect of any passenger ship which is not a Community ship on any voyage from any landing point outside the territory of the European Community to the United Kingdom the owner shall make—

- (a) information as to the total number of persons on board the ship; and
- (b) the information specified in regulation 6(3) above,

readily available to the appropriate search and rescue services for the purposes of search and rescue in the event of an emergency or in the aftermath of an accident involving the ship.

Registration system

8.—(1) The owner of a passenger ship to which regulation 5 or 6 above applies shall—

- (a) establish a system for the registration of the information collected pursuant to these Regulations which—
 - (i) is in accordance with the requirements of Merchant Shipping Notice M 1729; and
 - (ii) is approved by the Secretary of State;
- (b) appoint a shore-based passenger registrar who shall be responsible for holding the information collected pursuant to these Regulations and for its transmission to appropriate search and rescue services in the event of an emergency or in the aftermath of an accident involving the ship; and
- (c) ensure that the information collected pursuant to these Regulations is at all times readily available for transmission to the appropriate search and rescue services for use in an emergency or in the aftermath of an accident involving the ship.

(2) Any personal data which is collected solely pursuant to these Regulations by an owner shall be kept only for as long as is necessary for the purposes of these Regulations.

(3) The Secretary of State may appoint persons to carry out checks on the proper functioning of registration systems approved under this regulation.

(4) In performing the checks referred to in paragraph (3) above, the persons appointed shall—

- (i) be entitled to board any ship to which the registration system relates and enter any premises of the passenger registrar; and
- (ii) have access to any records and documents, including electronic and computer records, which comprise the owner's registration system.

Exemptions

9.—(1) The Secretary of State may exempt any passenger ship from the requirements of these Regulations, subject to such conditions (if any) as he may specify, and may, subject to giving reasonable notice, alter or cancel any exemption so granted.

(2) Without prejudice to paragraph (1) above, the Secretary of State may exempt any passenger ship—

- (a) leaving any landing point within the United Kingdom from the requirements of regulation 5(4) in so far as they apply as respects the passenger registrar if the ship is

engaged, exclusively in a protected sea area, on a regular service of less than one hour between calls at landing points; or

- (b) from the requirements of regulation 6(2) above if—
 - (i) in respect of any United Kingdom passenger ship leaving any landing point outside the territory of the European Community on an international voyage, the scheduled voyages of the ship make it impracticable for such records to be prepared; and
 - (ii) in respect of any passenger ship leaving any landing point within the United Kingdom—
 - (aa) the ship sails exclusively in a protected sea area between two landing points or from and to the same landing point without calling at any intermediate landing point; or
 - (bb) the ship is engaged on a regular community service.

False statements

10. A person shall not, in connection with a system for counting the persons on board a passenger ship or collecting the information specified in regulation 6(3) above—

- (a) knowingly or recklessly make any false statement liable or intended to lead to error in the determination of the total number of persons on board or in the collection of the information specified in regulation 6(3); or
- (b) falsify the information collected or transmitted to the passenger registrar.

Offences

11.—(1) If there is any breach of the requirements of these Regulations in respect of a passenger ship the owner and, in respect of a breach of regulation 5(6), the master shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years or a fine, or both.

(2) Any person contravening regulation 10 shall be guilty of an offence punishable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine, or both.

Defences

12.—(1) It shall be a good defence to a charge under these Regulations for the person charged to prove that he took all reasonable steps to avoid the commission of the offence.

(2) Without prejudice to paragraph (1) above, it shall be a good defence to a charge under regulation 10 above for a person providing information to the owner of a ship in respect of other persons not being members of his family, being information required by the owner pursuant to these Regulations, to prove that the information was collected by him in good faith.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

30th June 1999

Glenda Jackson
Parliamentary Under-Secretary of State,
Department of the Environment, Transport and
the Regions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Merchant Shipping (Passenger Boarding Cards) Regulations 1988, the Merchant Shipping (Passenger Boarding Cards) (Application to non-UK Ships) Regulations 1988 and the Merchant Shipping (Passenger Counting and Recording Systems) Regulations 1990.

The Regulations implement Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the member States of the Community and Chapter III, regulation 24–2 of the annex to the International Convention for the Safety of Life at Sea 1974 (SOLAS), as amended by the Conference of the Contracting Governments to SOLAS on 28 November 1995.

The principal changes from the provisions of the revoked Regulations are:

- (i) the requirement to have a system capable of counting all persons on board is applied to Class I ships (regulation 4);
- (ii) the requirement to collect specified information for ships departing on voyages of more than 20 miles from a UK port or, in respect of a UK passenger ship leaving a port outside the European Community, on international voyages (regulation 6); and
- (iii) the requirement to establish a passenger registrar by ship owners, who will be responsible for holding the information collected and transmitting it to the appropriate search and rescue services in the event of an emergency (regulation 8).

A compliance cost assessment has been produced and a copy placed in the library of each House of Parliament. Copies may be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone: 01703 329360).

Merchant Shipping Notices may be obtained from Eros Marketing Support Services, Delta House, Imber Court Trading Estate, Orchard Lane, East Molesey, Surrey KT8 0BN. Copies of SOLAS may be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.