
STATUTORY INSTRUMENTS

2001 No. 3209

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Domestic Passenger Ships)
(Safety Management Code) Regulations 2001**

Made - - - - 19th September 2001

Laid before Parliament 24th September 2001

Coming into force - - 1st November 2001

The Secretary of State, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995⁽¹⁾, in exercise of the powers conferred upon him by section 85(1)(a) and (b), (3) and (5) to (7) and section 86(1) of that Act, by the Merchant Shipping (Control of Pollution) (SOLAS) Order 1998⁽²⁾, and being a Minister designated⁽³⁾ for the purpose of section 2(2) of the European Communities Act 1972⁽⁴⁾ in relation to measures relating to the safety of ships and the health and safety of persons on them, in exercise of the powers conferred upon him by the said section 2(2), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Domestic Passenger Ships) (Safety Management Code) Regulations 2001 and shall come into force on 1st November 2001.

Interpretation

2. In these Regulations:

“audit” means a systematic and independent examination to determine whether a safety management system is suitable to meet the objectives set out in the Safety Management Code for Domestic Passenger Ships, and, so far as the system is being operated, that the system is being implemented effectively;

“authorised person” means a surveyor of ships or person authorised by the Secretary of State to carry out audits and inspections for the purpose of these Regulations;

(1) 1995 c. 21: sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8.
(2) S.I. 1998/1500.
(3) S.I. 1993/595.
(4) 1972 c. 68.

“Category A, B, C or D waters” means the waters specified as such in Merchant Shipping Notice No. 1758(M), and cognate expressions shall be construed accordingly;

“company”, in relation to a ship, means the owner or any other organisation or person such as the operator, manager, or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner;

“Domestic Ship Safety Management Certificate” means a certificate issued by the Maritime and Coastguard Agency in accordance with these Regulations, and “valid Domestic Ship Safety Management Certificate” means such a certificate which has not expired, or ceased to be valid in accordance with regulation 6(3) (or which having so ceased to be valid has subsequently been endorsed as valid in accordance with regulation 6(4)), and which is not suspended in accordance with regulation 9(3);

“favourable weather” means fine, clear settled weather with a sea state such as to cause only moderate rolling and/or pitching;

“Maritime and Coastguard Agency” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport, Local Government and the Regions;

“Merchant Shipping Notice” means a Notice described as such and issued by the Maritime and Coastguard Agency, and includes a reference to any such document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time;

“passenger” means any person carried in a ship except—

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship,
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reasons of any circumstances that neither the master nor the company could have prevented, and
- (c) a child under one year of age;

“passenger certificate” means a certificate issued pursuant to regulation 11 of the Merchant Shipping (Survey and Certification) Regulations 1995(5)

“passenger ship” means a ship carrying more than 12 passengers and propelled by electricity or other mechanical power;

“restricted period” means a period falling wholly within the following limits;

- (a) from 1st April to 31st October, both dates inclusive, and
- (b) between one hour before sunrise and one hour after sunset in the case of ships fitted with navigation lights conforming to the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996(6) and between sunrise and sunset in the case of any other ships;

“Safety Management Code for Domestic Passenger Ships” means the Safety Management Code for Small Vessels set out in Merchant Shipping Notice No. 1754(M);

“safety management system” means a structured and documented system enabling the company’s personnel effectively to implement the company’s safety and environmental protection policy;

“sea” does not include any waters of Category A, B, C or D;

“voyage” includes an excursion.

(5) S.I. 1995/1210, amended by S.I. 1996/2418, S.I. 2000/1334 and S.I. 2000/2687.

(6) S.I. 1996/75.

Application

3.—(1) These Regulations apply to passenger ships, other than ships engaged on international voyages, which are of the classes numbered in column 1 below which have the descriptions set out in column 2 below:

Class III	Ships engaged only on voyages in the course of which they are at no time more than 70 miles by sea from their point of departure nor more than 18 miles from the coast of the United Kingdom, and which are at sea only in favourable weather and during restricted periods
Class IV	Ships engaged only on voyages in Category A, B, C or D waters
Class V	Ships engaged only on voyages in Category A, B or C waters
Class VI	Ships engaged only on voyages, carrying not more than 250 passengers, to sea or in Category A, B, C or D waters, in all cases in favourable weather and during restricted periods, in the course of which the ships are at no time more than 15 miles, exclusive of any Category A, B, C or D waters, from their point of departure nor more than 3 miles from land
Class VI(A)	Ships carrying not more than 50 passengers for a distance of not more than 6 miles on voyages to or from isolated communities on the islands or coast of the United Kingdom and which do not proceed for a distance of more than 3 miles from land

(2) These Regulations do not apply to those companies and ships to which Council Regulation (EC) No. 3051/95 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries)(7) applies.

Exemptions

4.—(1) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for individual cases or classes of case on such terms (if any) as he may specify, if he is satisfied that:

- (a) compliance with such provision is either impracticable or unreasonable in that case or cases, and
- (b) the exemption is subject to such conditions and limitations as will provide a level of safety equivalent to that provided by the provision or provisions from which exemption is being granted.

(2) The Secretary of State may, on giving reasonable notice, alter or cancel any exemption granted under paragraph (1) above.

(7) 1995 c. 21: sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8.

General duty to comply with Safety Management Code

5. A company shall comply with the requirements of the Safety Management Code for Domestic Passenger Ships as it applies to that company and to any ship owned by it or for which it has operational responsibility.

Domestic Ship Safety Management Certificate

6.—(1) From the first date on or after 1st November 2001 on which a passenger certificate is issued in relation to a ship, the company owning the ship or having operational responsibility for it shall hold in relation to that ship a valid Domestic Ship Safety Management Certificate.

(2) Where an authorised person has audited the safety management system for a ship and is satisfied that the safety management system for the ship is suitable to meet the objectives set out in Merchant Shipping Notice 1754(M) and, so far as the system is being operated, is being implemented effectively, the Maritime and Coastguard Agency may issue a Domestic Ship Safety Management Certificate which, subject to paragraph (3) and to regulation 9(3), shall be valid until the expiry of the ship's passenger certificate.

(3) A Domestic Ship Safety Management Certificate shall cease to be valid:

- (a) if an authorised person has not, within the period between three and six months after the issuing of the ship's Domestic Ship Safety Management Certificate, audited the safety management system of the ship, or
- (b) if an authorised person who audits the safety management system of the ship in accordance with paragraph (a) is not satisfied that it is being implemented effectively.

(4) Where a Domestic Ship Safety Management Certificate has ceased to be valid in accordance with paragraph (3), the Maritime and Coastguard Agency may endorse it as valid until the expiry of the ship's passenger certificate if an authorised person who audits the safety management system of the ship after the Certificate has ceased to be valid is satisfied that the safety management system is being implemented effectively.

(5) A company shall ensure that a valid Domestic Ship Safety Management Certificate held in relation to the ship is carried on board each ship owned by it or for which it has operational responsibility.

Duties of the master

7. The master of a ship shall operate that ship in accordance with the safety management system on the basis of which the Domestic Ship Safety Management Certificate was issued in relation to the ship.

Designated person

8.—(1) A company shall in relation to each ship owned by it or for which it has operational responsibility designate a person who shall be responsible for monitoring the safe operation of the ship and, so far as it may affect safety, the efficient operation of the ship.

(2) In particular, the designated person shall—

- (a) take such steps as are necessary to ensure compliance with the safety management system on the basis of which the Domestic Ship Safety Management Certificate was issued in relation to the ship, and
- (b) ensure that proper provision is made for the ship to be adequately manned, equipped and maintained, so that it is fit to operate in accordance with that safety management system and with any enactment relating to safety applicable to the ship.

- (3) The company shall ensure that a designated person—
- (a) is provided with sufficient authority and resources, and
 - (b) has appropriate knowledge and sufficient experience of the operation of ships,
- to enable him to comply with his responsibilities under paragraphs (1) and (2).

Enforcement

9.—(1) An authorised person:

- (a) may inspect a safety management system on the basis of which a Domestic Ship Safety Management Certificate has been issued,
 - (b) may inspect a ship for the purpose of seeing that these Regulations are complied with.
- (2) An authorised person exercising functions under this regulation shall have the powers conferred on an inspector by section 259 of the Merchant Shipping Act 1995.
- (3) Where an authorised person considers that a ship, notwithstanding that a Domestic Ship Safety Management Certificate is in force in relation to that ship, is unable to operate without creating a risk of serious danger to safety of life, the Secretary of State may suspend the Domestic Ship Safety Management Certificate of that ship until such time as any risk is removed.
- (4) Where a Domestic Ship Safety Management Certificate is to be suspended in accordance with paragraph (3) the Secretary of State shall serve on the company a notice:
- (a) stating that the Certificate shall be suspended, and
 - (b) containing the grounds for the suspension.
- (5) A notice under paragraph (4) shall not be given unless the company has been given the opportunity to make representations, except where the Secretary of State considers that urgent safety considerations require the notice to be given immediately.
- (6) If an authorised person is satisfied on inspecting a ship that there is a failure to comply with a requirement of regulation 5 or 6 in relation to that ship he may detain the ship.
- (7) In any case where a ship is liable to be detained, section 284 of the Merchant Shipping Act 1995⁽⁸⁾ (which relates to the detention of the ship) shall have effect in relation to the ship subject to the modification that for the words “this Act”, wherever they appear, there shall be substituted the words “the Merchant Shipping (Domestic Passenger Vessels) (Safety Management Code) Regulations 2001”.
- (8) Where a ship is detained in relation to a failure to comply with a requirement of regulation 5 or 6, sections 96 and 97 of the Merchant Shipping Act 1995 shall apply to the notice of detention as they apply to a detention notice under section 95 of that Act, and as if for references to the ship being dangerously unsafe there were substituted references to there having been a failure to comply with either of those Regulations.

Offences and penalties

- 10.—(1)** Any contravention of these regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum, or on conviction on indictment by imprisonment for a term not exceeding 2 years, or a fine, or both.
- (2) A person who—
- (a) intentionally alters a Domestic Ship Safety Management Certificate,
 - (b) in connection with any adult conducted in accordance with these Regulations knowingly or recklessly furnishes false information,

⁽⁸⁾ Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 1, paragraph 5.

(c) with intent to deceive uses, lends or allows to be used by another, a Domestic Ship Safety Management Certificate, or

(d) in Scotland forges any Domestic Ship Safety Management Certificate,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum, or on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine or both.

(3) It shall be a defence for a person charged with an offence under the Regulations to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Amendments to 1997 Regulations

11. Regulation 5 of the Merchant Shipping (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997(9) shall be amended by the insertion after paragraph (1) of the following paragraphs:

“(1A) Any such notice shall contain grounds for the suspension or cancellation of the certificate.

(1B) A notice shall not be given unless the holder has been given the opportunity to make representations, except where the Secretary of State considers that urgent safety or pollution prevention considerations require the notice to be given immediately.”

Amendments to 1998 Regulations

12.—(1) The Merchant Shipping (International Safety Management (ISM) Code) Regulations 1998(10) shall be amended as follows.

(2) In regulation 16(1)(b):

(a) for the word “ships” where it first appears there shall be substituted the words “a ship, ships or deliver a service”, and

(b) for the word “ships” where it next appears there shall be substituted the words “a ship, ships or service offered”.

(3) In regulation 16(1)(c), before the word “service” each time it appears there shall be inserted the words “ship, ships or”.

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

David Jamieson
Parliamentary Under-Secretary of State
Department for Transport, Local Government
and the Regions

19th September 2001

(9) S.I. 1997/3022.

(10) S.I. 1998/1561.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require passenger ships of Classes III to VI(A) (which are generally known as “small passenger ships”), operating within domestic waters, to develop and implement a Safety Management Code, the details of which are contained in Merchant Shipping Notice 1754(M).

The Regulations provide in particular for the issue of Domestic Ship Safety Management Certificates by the Maritime and Coastguard Agency (*regulation 6*), for the ship to be operated in accordance with the requirements of the Code by its owner, master and operator (*regulations 5, 7, and 8*), for enforcement (*regulation 9*), and for offences and penalties (*regulation 10*).

The Regulations also make minor drafting corrections to the Merchant Shipping (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997 (S.I. [1997/3022](#)) and the Merchant Shipping (International Safety Management (ISM) Code) Regulations 1998 (S.I. [1998/1561](#)).

A Regulatory Impact Assessment has been prepared and copies can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG. A copy has been placed in the library of each House of Parliament.

Merchant Shipping Notices are obtainable from Iforce, Delta House, Imber Court Business Park, Orchard Lane, East Molesey, Surrey KT8 0BN (telephone 020 8957 5028).