

Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (Text with EEA relevance)

Article 1

Objective

The objective of this Regulation is to enhance the safety management and safe operation of ships as well as the prevention of pollution from ships, referred to in Article 3(1), by ensuring that companies operating those ships comply with the ISM Code by means of:

- (a) the establishment, implementation and proper maintenance by companies of the shipboard and shore-based safety management systems; and
- (b) the control thereof by flag and port State administrations.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) ‘the ISM Code’ means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organisation by Assembly Resolution A.741(18) of 4 November 1993, as amended by Maritime Safety Committee Resolution MSC.104(73) of 5 December 2000 and set out in Annex I to this Regulation, in its up-to-date version;
- (2) ‘recognised organisation’ means a body recognised in accordance with Directive 94/57/EC;
- (3) ‘company’ means the owner of the ship or any other organisation or person, such as the manager or the bareboat charterer, who has assumed responsibility for the operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the ISM Code;
- (4) ‘passenger ship’ means a ship, including a high-speed craft, carrying more than 12 passengers, or a passenger submersible craft;
- (5) ‘passenger’ means every person other than:
 - (a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and
 - (b) a child under one year of age;
- (6) ‘high-speed craft’ means a high-speed craft as defined in Regulation X-1/2 of SOLAS, in its up-to-date version. For high-speed passenger craft, the limitations indicated in Article 2(f) of Directive 98/18/EC shall apply;
- (7) ‘cargo ship’ means a ship, including a high-speed craft, which is not a passenger ship;

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- (8) ‘international voyage’ means a voyage by sea from a port of a Member State or any other State to a port outside that State, or vice versa;
- (9) ‘domestic voyage’ means a voyage in sea areas from a port of a Member State to the same or another port within that Member State;
- (10) ‘regular shipping service’ means a series of ship crossings operated so as to serve traffic between the same two or more points, either:
- (a) according to a published timetable; or
 - (b) with crossings so regular or frequent that they constitute a recognisable systematic series;
- (11) ‘ro-ro passenger ferry’ means a seagoing passenger vessel as defined in Chapter II-1 of SOLAS, in its up-to-date version;
- (12) ‘passenger submersible craft’ means a passenger-carrying mobile vessel which primarily operates under water and relies on surface support, such as a surface ship or shore-based facilities, for monitoring and for one or more of the following:
- (a) recharging of power supply;
 - (b) recharging high pressure air;
 - (c) recharging life-support;
- (13) ‘mobile offshore drilling unit’ means a vessel capable of engaging in drilling operations for the exploration for or exploitation of resources beneath the seabed such as liquid or gaseous hydrocarbons, sulphur or salt;
- (14) ‘gross tonnage’ means the gross tonnage of a ship determined in accordance with the International Convention on Tonnage Measurement of Ships, 1969 or, in the case of ships engaged exclusively on domestic voyages and not measured in accordance with the said Convention, the gross tonnage of the ship determined in accordance with national tonnage measurement regulations.

Article 3

Scope

- 1 This Regulation shall apply to the following types of ships and to companies operating them:
- a cargo ships and passenger ships, flying the flag of a Member State, engaged on international voyages;
 - b cargo ships and passenger ships engaged exclusively on domestic voyages, regardless of their flag;
 - c cargo ships and passenger ships operating to or from ports of the Member States, on a regular shipping service, regardless of their flag;
 - d mobile offshore drilling units operating under the authority of a Member State.
- 2 This Regulation shall not apply to the following types of ships or to the companies operating them:
- a ships of war and troopships and other ships owned or operated by a Member State and used only on government non-commercial service;

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- b ships not propelled by mechanical means, wooden ships of primitive build, pleasure yachts and pleasure craft, unless they are or will be crewed and carrying more than 12 passengers for commercial purposes;
- c fishing vessels;
- d cargo ships and mobile offshore drilling units of less than 500 gross tonnage;
- e passenger ships, other than ro-ro passenger ferries, in sea areas of Class C and D as defined in Article 4 of Directive 98/18/EC.

Article 4

Compliance

Member States shall ensure that all companies operating ships falling within the scope of this Regulation comply with the provisions of this Regulation.

Article 5

Safety management requirements

The ships referred to in Article 3(1) and the companies operating them shall comply with the requirements of Part A of the ISM Code.

Article 6

Certification and verification

For the purposes of certification and verification, Member States shall comply with the provisions of Part B of the ISM Code.

Article 7

Derogation

1 A Member State may, if it considers it difficult in practice for companies to comply with paragraphs 6, 7, 9, 11 and 12 of Part A of the ISM Code for certain ships or categories of ships exclusively engaged on domestic voyages in that Member State, derogate wholly or partly from those provisions by imposing measures ensuring equivalent achievement of the objectives of the Code.

2 A Member State may, for ships and companies for which a derogation has been adopted by virtue of paragraph 1, if it considers it difficult in practice to apply the requirements laid down in Article 6, establish alternative certification and verification procedures.

3 In the circumstances set out in paragraph 1 and, if applicable, paragraph 2, the following procedure shall apply:

- a the Member State concerned shall notify the Commission of the derogation and of the measures which it intends to adopt;
- b if, within six months of the notification, it is decided, in accordance with the procedure referred to in Article 12(2), that the proposed derogation is not justified or that the proposed measures are not sufficient, the Member State shall be required to amend or refrain from adopting the proposed provisions;

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- c the Member State shall make any adopted measures public with a direct reference to paragraph 1 and, if applicable, paragraph 2.

4 Following a derogation under paragraph 1 and, if applicable, paragraph 2, the Member State concerned shall issue a certificate in accordance with the second subparagraph of Annex II, Part B, Section 5, indicating the applicable operational limitations.

Article 8

Validity, acceptance and recognition of certificates

1 The Document of Compliance shall remain valid for up to five years from the date of its issue. The Safety Management Certificate shall remain valid for up to five years from the date of its issue.

2 In cases of renewal of the Document of Compliance and the Safety Management Certificate, the relevant provisions of Part B of the ISM Code shall apply.

3 Member States shall accept Documents of Compliance, Interim Documents of Compliance, Safety Management Certificates and Interim Safety Management Certificates issued by the administration of any other Member State or on behalf of this administration by a recognised organisation.

4 Member States shall accept Documents of Compliance, Interim Documents of Compliance, Safety Management Certificates and Interim Safety Management Certificates issued by, or on behalf of, the administrations of third countries.

However, for ships engaged on a regular shipping service, compliance with the ISM Code by the Documents of Compliance, Interim Documents of Compliance, Safety Management Certificates and Interim Safety Management Certificates issued on behalf of administrations of third countries shall be verified, by any appropriate means, by or on behalf of the Member State(s) concerned, unless they were issued by the administration of a Member State or by a recognised organisation.

Article 9

Penalties

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all the measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 10

Reporting

1 Member States shall report to the Commission every two years on the implementation of this Regulation.

2 The Commission shall, in accordance with the procedure referred to in Article 12(2), establish a harmonised specimen form for such reports.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 336/2006 of the European Parliament and of the Council. (See end of Document for details)

3 The Commission shall, with the assistance of the European Maritime Safety Agency and within six months of receiving the reports from Member States, prepare a consolidated report concerning the implementation of this Regulation, with any proposed measures, if appropriate. This report shall be addressed to the European Parliament and the Council.

Article 11

Amendments

1 Amendments to the ISM Code may be excluded from the scope of this Regulation pursuant to Article 5 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS)⁽¹⁾.

[^{F12} Within the scope of this Regulation as defined in Article 3, the Commission is empowered to adopt delegated acts in accordance with Article 11a amending Annex II in order to take account of developments at international level and in particular in the IMO, or to improve the effectiveness of this Regulation in the light of the experience gained in its implementation.]

Textual Amendments

F1 Substituted by [Regulation \(EU\) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union \(Text with EEA relevance\)](#).

[^{F2}Article 11a

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 11(2) shall be conferred on the Commission for a period of five years from 26 July 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Article 11(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽²⁾.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 336/2006 of the European Parliament and of the Council. (See end of Document for details)

6 A delegated act adopted pursuant to Article 11(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.]

Textual Amendments

- F2** Inserted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

[^{F3} Article 12

Committee procedure

1 The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) set up by Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council⁽³⁾

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at two months.]

^{F4}3

Textual Amendments

- F3** Substituted by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One.
- F4** Deleted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

Article 13

Repeal

1 Regulation (EC) No 3051/95 shall be repealed with effect from 24 March 2006.

2 Interim Documents of Compliance, Interim Safety Management Certificates, Documents of Compliance and Safety Management Certificates issued before 24 March 2006 shall remain valid until their expiry or until their next endorsement.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 336/2006 of the European Parliament and of the Council. (See end of Document for details)

Article 14

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

As concerns cargo and passenger ships, which are not already required to comply with the ISM Code, this Regulation shall apply as from 24 March 2008.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 336/2006 of the European Parliament and of the Council. (See end of Document for details)

- (1) OJ L 324, 29.11.2002, p. 1. Regulation as amended by Commission Regulation (EC) No 415/2004 (OJ L 68, 6.3.2004, p. 10).
- (2) [^{F2}OJ L 123, 12.5.2016, p. 1.]
- (3) [^{F3}OJ L 324, 29.11.2002, p. 1.]

Textual Amendments

- F2** Inserted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).
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Changes to legislation:

There are currently no known outstanding effects for the Regulation (EC) No 336/2006 of the European Parliament and of the Council.