



MERCHANT SHIPPING ACT 1985

MERCHANT SHIPPING (CLOSING OF OPENINGS IN HULLS AND SUPERSTRUCTURES) REGULATIONS 1989

1. The Merchant Shipping (Closing of Openings in Hulls and Superstructures) Regulations 1989, a copy of which is attached, were made by the former Department of Highways, Ports and Properties on the 16th. December, 1988.
2. The Regulations apply to all Manx passenger ships and include the undermentioned requirements which implement the provisions of regulation 15 (which relates to openings in watertight bulkheads) of chapter II-1 of the International Convention for the Safety of Life at Sea 1974 (Cmnd 7874) as amended, and the recommendations of the “Sheen Report”.
3. The Regulations impose additional, more precise requirements:
 - (a) for the control of weathertight and watertight doors in the hull and superstructures above the bulkhead deck;
 - (b) for the control of watertight doors and other closing appliances and devices situated in bulkheads below the bulkhead deck;
 - (c) for the inspection of all such doors;
 - (d) for practice drills to be carried out and relevant entries to be made in the official log book;
 - (e) and require the provision of operational instructions and lists of suitable loading berths.
4. The Regulations were approved by Tynwald on the 18th. January, 1989 and came into operation on the 1st. February, 1989.
5. This text includes the amendments (indicated by ***bold italics***) made to the 1989 Regulations by –
 - (a) the Criminal Justice (Penalties Etc.) Act 1994 [c. 18]
 - (b) the Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)
 - (c) the Merchant Shipping (SOLAS II-1 Construction) Regulations 2007 (SD 502/07)

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MERCHANT SHIPPING

MERCHANT SHIPPING (CLOSING OF OPENINGS IN HULLS AND SUPERSTRUCTURES) REGULATIONS 1989

In exercise of the powers conferred on the Department of Highways, Ports and Properties¹ by sections 1, 2, and 5 of the Merchant Shipping Act 1985², and after consultation with the Secretary of State and those persons referred to in section 2(2) of the Act, the following Regulations are hereby made:-

PART I - INTRODUCTION

Citation, commencement, interpretation, application and revocation

1.- (1) These Regulations may be cited as the Merchant Shipping (Closing of Openings in Hulls and Superstructures) Regulations 1989 and, subject to section 5(4) of the Act, shall come into operation on the 1st February 1989.

(2) In these Regulations the following expressions have the following meanings respectively -

“the Act” means the Merchant Shipping Act 1985;

“bulkhead deck” means the uppermost deck up to which transverse watertight bulkheads are carried;

“Department” means the *Department of Trade and Industry*;

“doors” includes bow visors and appliances described in regulation 10(1)(iv);

“enclosed superstructure” means a superstructure:-

- (a) which has enclosing bulkheads of efficient construction in which all access openings are fitted with sills and weathertight doors, and
- (b) in which all other openings in the sides or ends or superstructure deck thereof are fitted with efficient weathertight means of closing;

“locked” means secured by a device which prevents unauthorised operation;

“Manx Passenger Ship” means a passenger ship which is a Manx ship within the meaning of section 1 of the Act;

¹ Functions transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)

² 1985 C.3

“margin line” has the same meaning as in the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984³;

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

“required” in the expressions “required to be watertight” and “required to be weathertight” means required by the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984 or the Merchant Shipping (Passenger Ship Construction) Regulations 1980⁴ to be watertight or weathertight as the case may be;

“restricted visibility” means any condition in which visibility is restricted by fog, mist, snow, rainstorms, sandstorms or any other similar causes;

“ro/ro passenger ship” means a passenger ship provided with cargo or vehicle spaces in which vehicles or cargo can be loaded and unloaded in a horizontal direction;

“similar stage of construction” means a stage at which:

- (a) construction identifiable with a particular ship began; and***
- (b) assembly of that ship has commenced comprising of at least 50 tonnes or one per cent of the estimated mass of all structural material whichever is the less;⁵***

“superstructure” means a decked structure situated on or above the bulkhead deck which either extends from side to side of the ship or is such that its side plating is not inboard of the shell plating of the ship by more than 4 per cent of the breadth of the ship; and, where the bulkhead deck of the ship consists of a lower deck, includes that part of the hull of the ship which extends above the bulkhead deck;

“superstructure deck” means a deck forming the top of a superstructure;

“watertight” in relation to a structure means capable of preventing the passage of water through the structure in any direction under a maximum head of water which it might have to sustain in the event of damage to the ship, but for structures below the bulkhead deck at least the head of water up to the ship's margin line; and

“weathertight” in relation to a structure means capable of preventing the passage of sea water through the structure in the worst sea and weather conditions likely to be encountered by the ship.

³ S.I.1984/1216 applied to the Isle of Man by GC 38/85

⁴ S.I. 1980/535 Applied by G.C. 38/85

⁵ Definition inserted by SD502/07

(3) References in these Regulations to any statutory provision shall be construed as a reference to that provision as it has effect in the Island.

(4) The reference to Manx Shipping Notice No.102 shall include a reference to any subsequent Manx Shipping Notice amending or replacing it which specifies the date on which such subsequent Notice takes effect and which the Department considers relevant from time to time.

(5) For the purpose of these Regulations a closing appliance shall be deemed to be below the margin line if the sill of the opening with which it is associated is below that line.

(6) For the purpose of these Regulations a door shall be deemed to be above the margin line if the sill of the opening with which it is associated is above that line.

(7) Where a ship is managed by a person other than its 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 person.

(8) The public document mentioned in the Schedule is revoked to the extent specified in the third column of that Schedule.

(9) A voyage for the purpose of these Regulations commences when a ship leaves its berth or anchorage at a port.

(10) Any approval given pursuant to these Regulations shall be given in writing and shall specify the date when it is to come into force and the conditions (if any) on which it is given.

PART II

CLOSURE OF HULL OPENINGS, WATERTIGHT DOORS, OPENINGS IN WATERTIGHT BULKHEADS

2. This part applies to all Manx Passenger ships, *“the keels of which were laid or which were at a similar stage of construction prior to 1 July 1986.”*⁶

3.- (1) The following closing appliances are to be securely closed before the ship proceeds on any voyage and are to be kept so closed until the ship has been secured at a berth or anchorage:

- (a) watertight doors below the margin line fitted in bulkheads which are required to be watertight and which separate cargo spaces;
- (b) sidescuttles which can be opened and which are situated below the margin line;
- (c) deadlights of any sidescuttles which are situated below the margin line and which –

⁶ Amendment inserted by SD502/07

- (i) will not be accessible whilst the ship is at sea; or
 - (ii) are situated in spaces appropriated for use sometimes for the carriage of cargo and sometimes for use by passengers, while such spaces are being used for the carriage of cargo; and
- (d) gangway and cargo loading doors below the margin line.

(2) No closing appliance described in sub-paragraphs (a), (b), (c) or (d) of paragraph (1) of this regulation shall be considered as being securely closed unless it is locked.

4.- (1) Watertight doors below the margin line fitted in bulkheads which are required to be watertight, other than those doors described in regulation 3(1), shall be kept closed whilst the ship is on any voyage except:

- (a) when opened in accordance with the procedures laid down in written operational instructions which are-
 - (i) based upon the advice contained in Manx Shipping Notice No. 102
 - (ii) approved by the Department;
- (b) when opened for the purposes of drill required by regulation 7; or
- (c) when any such door is opened on the express authority of the master for a specific purpose and for no longer than a specific period of time provided that all other watertight doors below the margin line, except those opened in accordance with the provisions of sub-paragraph (a), are closed during that period.

(2) The operational instructions referred to in paragraph (1)(a) shall be kept on board the ship at all times in the custody of the master.

(3) Notwithstanding sub-paragraphs (a), (b) and (c) of paragraph (1) above, every watertight door of the type described in that paragraph shall, except where there is an immediate need to pass through, be kept closed whilst the ship is on a voyage-

- (a) in conditions of restricted visibility;
- (b) within port limits or compulsory pilotage limits;
- (c) where the depth of water is less than 3 times the ship's draught; and
- (d) in any other conditions which the master considers potentially hazardous owing to-
 - (i) the proximity of underwater hazards,
 - (ii) the density of traffic, or
 - (iii) any other factor

and if any such door is opened in such circumstances then it shall be closed immediately after passage though it has been effected.

(4) Any watertight door which may be opened in accordance with the requirements of paragraphs (1) or (3) of this regulation shall be kept clear of obstructions which might prevent its rapid closure.

(5) Notwithstanding the requirements of this regulation or regulation 3, in an emergency situation the master may authorise the opening or closing of any watertight door, provided he is satisfied that such action is essential for the overall safety of the ship.

5. Every portable plate closing an opening below the margin line in any portion of the internal structure of the ship which is required to be watertight shall be fitted in place before the ship proceeds on any voyage and shall be kept in place, except in case of urgent necessity, until the ship has been secured at a berth or anchorage. In replacing any such plate all reasonable precautions shall be taken to ensure that the joints are watertight.

6. Both the watertight cover and the automatic non-return valve of any ash-shoot, rubbish-shoot or other similar device on the ship having its inboard opening below the margin line shall be kept closed and secured when such device is not in use.

Drills and inspections

7.- (1) All deadlights which are accessible, all watertight doors to which regulation 4 applies, all valves and closing mechanisms of scuppers and the devices referred to in regulation 6 shall be opened and closed for purposes of drill

- (a) at intervals of not more than seven days except so far as is necessary to avoid drills being conducted in any of the situations described in regulation 4(3); and
- (b) immediately before the ship proceeds to sea if the ship is intended to remain at sea for a period of more than seven days.

(2) All watertight doors fitted in bulkheads required to be watertight which may be opened for the working of the ship in accordance with the requirements of regulation 4 shall be opened and closed for the purposes of drill once in every period of 24 hours.

(3) All closing appliances and devices referred to in regulations 3 and 6 shall be inspected by a person appointed by the master for that purpose -

- (a) before the ship proceeds on any voyage; and
- (b) at intervals of not more than seven days if the ship is intended to remain at sea for a period of more than seven days, except when they are not accessible.

8.- (1) The following closing appliances and mechanisms are to be inspected at intervals of not more than seven days by a person appointed for that purpose either

generally or on any particular occasion by the master:

- (a) all watertight doors other than those of the type described in regulation 3(1);
- (b) all mechanisms, indicators and warning devices connected with such doors;
- (c) all valves, the closing of which is necessary to make watertight any compartment below the margin line; and
- (d) all valves, the operation of which is necessary for the efficient operation of damage-control cross-connections.

(2) Suitable notices and signs shall be provided on, or in the vicinity of, all the closing appliances referred to in paragraph (1) to indicate, as necessary, the procedures for operating the appliances, the purpose of the controls and any precautions to be observed.

PART III

CLOSING OF OPENINGS IN ENCLOSED SUPERSTRUCTURE AND IN BULKHEADS ABOVE THE BULKHEAD DECK

Application

9. Without prejudice to the generality of the application of Part II, this Part shall apply to all Manx ro/ro passenger ships, *“the keels of which were laid or which were at a similar stage of construction prior to 1 July 1986.”*⁷

Closure of main loading doors

- 10.- (1) The following loading doors:-
- (a) gangway and cargo loading doors fitted in the shell or boundaries of enclosed superstructures,
 - (b) bow visors so fitted,
 - (c) cargo loading doors in the collision bulkhead,
 - (d) weathertight ramps so fitted and used instead of doors for closing openings for cargo or vehicle loading,

shall be closed and locked before the ship leaves its berth and shall be kept closed and locked until the ship has been secured at its next berth:

Provided that where a bow visor or a weathertight ramp of the type described in subparagraph (iv) cannot be opened or closed while the ship is secured at its berth it may be opened or left open while the ship approaches or draws away from its berth as the case

⁷ Amendment inserted by SD502/97

may be but only so far as may be necessary to enable the door to be opened or closed but subject to the limitation that in no case shall such door be open when the ship is more than one ship's length from the cargo loading or discharging position of its berth.

(2) Paragraph (1) shall not apply to small doors intended to be used for pilot access, fuelling or other matters necessary for the operation of the ship, but not intended to be used by passengers or for loading cargo.

Supervision and reporting of closure

11.- (1) Before the ship proceeds on a voyage an officer appointed for the purpose by the master shall-

- (a) verify that every loading door has been closed and locked, and
- (b) report the fact that it has been so closed and locked to the master or other officer in charge of the bridge.

(2) Save as permitted by the proviso to regulation 10(1) the ship shall not proceed on a voyage until the report referred to in paragraph (1)(b) has been received by the master or other officer in charge of the bridge.

Closure of watertight and weathertight doors in bulkheads

12.- (1) Watertight or weathertight doors above the margin line (except doors fitted in collision bulkheads to which regulation 10 applies) which are fitted in bulkheads which are required to be watertight or weathertight as the case may be and which separate or form the boundary of cargo spaces shall be closed and locked before the ship leaves its berth and be kept closed and locked until the ship has been secured at its next berth.

(2) Watertight and weathertight doors above the margin line fitted in the shell or in bulkheads which are required to be watertight or weathertight, other than those doors described in regulation 10(1) and 12(1), shall be kept closed whilst the ship is on any voyage except when opened on the express authority of the master.

(3) Any watertight or weathertight door which may be opened in accordance with the requirements of paragraph (2) shall be kept clear of obstructions which might prevent its rapid closure.

Opening of doors in an emergency

13. Notwithstanding the provisions of regulations 10(1) and 12(1), gangway and cargo loading doors may be opened in an emergency but only when the master considers such opening will not put the safety of the ship at risk.

List of berths

14. (1) The owner of the ship shall ensure that the ship is provided with a list ("the Berth List") of all loading berths at any port which it is intended the ship should

load or discharge cargo or vehicles.

(2) The Berth List shall list separately for each port which the ship is intended to visit to load or discharge vehicles -

- (a) the loading berths at which the ship in question can, when so loading or discharging, comply with the requirements of regulation 10(1) without relying on the proviso thereto; and
- (b) where it is intended that the ship shall so load or discharge in the manner permitted by that proviso, the loading berths at which it will so load or discharge.

The berths of the type described in sub-paragraph (b) shall be listed separately from those of the type described in sub-paragraph (a).

(3) A copy of the ship's Berth List shall be supplied to the Department.

(4) No ro/ro passenger ship shall except in an emergency load or discharge cargo or vehicles through a loading door at any berth which is not listed in the ship's Berth List and in the copy thereof supplied to the Department.

Written Instructions

15.- (1) The owner of the ship shall ensure that the ship is provided with written instructions concerning the doors to which these Regulations apply.

(2) Such written instructions shall be approved by the Department .

(3) The written instructions shall include the following information:-

- (a) the circumstances in which the doors to which these Regulations apply may be opened and are required to be closed;
- (b) a list of the small doors described in regulation 10(2);
- (c) the requirements for the verifying and reporting the closure of doors;
- (d) procedures for the opening of doors in an emergency;
- (e) the entries required by these Regulations to be made in the official log book;
- (f) a reference to the Berth List and any extra information relating thereto which may be necessary together with a clear statement that loading and discharging may be done only at the berths listed in the Berth List;
- (g) a warning of the penalties for not complying with these Regulations.

(4) The instructions shall be kept on the ship at all times in the custody of the master.

Compliance with written instructions

16. No door or bow visor shall be opened or closed on any ship to which these Regulations apply except in compliance with the written instructions provided in accordance with regulation 15

PART IV

GENERAL

Training

17. All members of the crew who would have occasion to use any watertight doors shall be instructed in the safe operation of watertight doors. In addition written instructions on the safe operation of the doors, given in easily understood terms and illustrated wherever possible, shall be available to all members of the crew. Such instructions shall be based upon the operational instructions referred to in regulation 4(1)(a).

Entries in official log book

18. Entries shall be made in the official log book recording the following:

- (a) the times of the last closing, before the ship proceeds on any voyage, of the watertight doors and other closing appliances referred to in regulation 3 and of the next opening of such doors and closing appliances;
- (b) the times of the opening and closing of any watertight door pursuant to regulation 4(1)(c);
- (c) the times when the portable plates referred to in regulation 5 are fitted in place and the times of any removal and replacement of such plates whilst the ship is on any voyage;
- (d) the occasions on which drills are held and inspections made in compliance with these Regulations and whether or not the closing appliances and devices to which any such drill or inspection relates are in good working order when the drill or inspection takes place;
- (e) the times of the last closing, before the ship proceeds on any voyage, of the watertight and weathertight doors referred to in regulations 10(1) and 12(1) and of the next opening of such doors; and (f) the times of the opening and closing of any watertight and weathertight door pursuant to regulations 12(2) and 13.

Penalties

19. (1) If there is a breach of regulations 3 to 8, 10, 11, 12, 14(4), 15(4) or 16 the owner and master of the ship shall each be guilty of an offence and liable on summary

conviction to a fine not exceeding **£5,000**.

(2) If there is a breach of regulations 14(1), (2) or (3) or of 15(1) or (2), the owner shall be guilty of an offence and liable on summary conviction to a fine not exceeding **£5,000**.

(3) Any person who fails to carry out an inspection which he has been appointed by the master to carry out under regulations 7(3) or 8 shall be guilty of an offence and liable on summary conviction to a fine not exceeding **£2,500**.

(4) If any officer appointed in accordance with regulation 11 reports a door to be closed when it is not in fact closed and locked he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **£5,000** or on conviction on information, to imprisonment for a term not exceeding two years and a fine.

(5) It shall be a good defence to a charge under these Regulations to prove that the person charged took all reasonable steps to avoid commission of the offence

Offences by Bodies Corporate

20. (1) Where an offence under any of these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Exemptions

21. The Department may exempt individual ships from the provisions of any of these regulations, subject to such conditions as it may specify, and may subject to giving reasonable notice, alter or cancel any exemption so granted.

SCHEDULE
REVOCATION

| <i>G.C. no</i> | <i>Title</i> | <i>Extent of Revocation</i> |
|----------------|---|--|
| 38/85 | Merchant Shipping (Safety Provisions) (Application) Order 1985 | In Schedule 1 - entry 30 Schedule 9 |

Made this 16th. day of December, 1988

A. Arnold Callin,

MINISTER for
Highways, Ports and Properties.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supersede the Merchant Shipping (Closing of Openings in Hulls and in Watertight Bulkheads) Regulations 1980 which were applied to the Isle of Man by the Merchant Shipping (Safety Provisions) (Application) Order 1985. Relevant parts of the 1985 Order are revoked by these Regulations. Part I of the new Regulations apply to all Manx passenger ships and include such requirements as appear necessary to the Department to implement the provisions contained in regulation 15 (which relates to openings in watertight bulkheads) of chapter II-1 of the International Convention for the Safety of Life at Sea 1974 (Cmnd 7874) as amended, and impose additional, more precise requirements for the control of watertight doors and other closing appliances and devices, for their inspection, for practice drills and for relevant entries in the official log book.

The Regulations also require the provision of operational instructions for watertight doors.

Part II of the Regulations apply to Manx ro/ro passenger ships and include such requirements as appear necessary to implement and impose additional, more precise requirements, for the control of watertight and weathertight doors fitted in the hull and enclosed superstructures above the bulkhead deck and for the supervision of their closing and for relevant entries in the official log book.

The Regulations also require the provision of operational instructions for weathertight and watertight doors and provision of lists of suitable loading berths.

Amended by:

SD 502/07 Merchant Shipping (SOLAS II-1 Construction) Regulations 2007 which limits application to ships the keels of which are laid or which are at a similar stage of construction prior to 1 July 1986.