



MERCHANT SHIPPING ACT 1985

MERCHANT SHIPPING (COUNTING AND REGISTRATION OF PERSONS ON BOARD PASSENGER SHIPS) REGULATIONS 1999

Coming into operation : 25th October 1999

In exercise of the powers conferred on the Department of Trade and Industry by sections 1 and 2 of the Merchant Shipping Act 1985 ^(a) and of all other powers enabling it in that behalf, after consultation with the Secretary of State and those persons referred to in section 2(2) of the Merchant Shipping Act 1985, the following Regulations are hereby made:-

Citation, commencement and revocation

1. (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 operation on 25th October 1999.

(2) The Merchant Shipping (Passenger Counting and Recording Systems) Regulations 1991^(b) are revoked.

Interpretation

2. (1) In these Regulations -

“adult” means any person who is 16 years of age or over;

“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;

“child” means any person who has reached his fourth birthday but not his sixteenth;

“Department” means the Department of Trade and Industry;

(a) 1985 c. 3. Functions transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997 (SD 51/97).

(b) G.C.71/91

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“infant” means any person who is under 4 years of age;

“international voyage” means a voyage from a country to which the International Convention for the Safety of Life at Sea applies ^(c) to a port outside that country, or conversely, and includes any voyage from a port in the Island to any port outside the Island;

“landing point” means any berth, excursion point, floating pier or stage, link span, pier, port or stop in the Island from where passengers are embarked and disembarked, or, as the case may be, embarked or disembarked;

“Manx passenger ship” means a passenger ship which is a Manx ship within the meaning of section 1 of the Merchant Shipping Registration Act 1991 ^(d);

“operator” means the owner, manager, demise charterer or other person other than the master having immediate control over the day to day employment, and operation of the ship;

“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 reason of any circumstances that neither-
 - (i) the master; nor
 - (ii) the operatorcould have prevented or forestalled; and
- (c) an infant under one year of age;

“passenger registrar” means the person appointed by the operator of a ship pursuant to regulation 5(1)(b);

“passenger ship” means a ship carrying more than 12 passengers.

“ship” includes hovercraft.

(2) Any approval or exemption 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.

(c) Cmnd 7874

(d) 1991 c. 15

Application

3. These Regulations apply to -
- (a) any Manx passenger ship wherever it may be; and
 - (b) any other passenger ship while it is in the Island.

Operation of a counting system

4. (1) The operator of a Manx passenger ship shall ensure that when it leaves any landing point there is a system capable of counting all persons on board. The operator of any other passenger ship shall ensure that, when it leaves any landing point in the Island, there is a system capable of counting all persons on board. The system referred to above shall -

- (a) use individual passenger boarding cards;
- (b) conform to the requirements of paragraphs (2) to (4);
- (c) in the case of a Manx passenger ship, be approved by the Department; and
- (d) in the case of any other passenger ship be approved by the administration of the state in which the ship is registered or whose flag the ship is entitled to fly.

(2) The system of counting established pursuant to paragraph (1) 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 journey, are counted individually as they disembark;
 - (ii) all persons boarding at subsequent landing points, during the course of a journey 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 Department, which shall be of equivalent effectiveness to the system in sub-paragraph (a).

(3) No passenger shall be permitted to board the ship unless he has been issued with an individual boarding card.

(4) A passenger ship shall not leave any landing point until the total number of persons on board at that time as determined by means of the counting system is communicated to the master and to the operator's passenger registrar and that number shows that the total number of persons on board the ship does not exceed the number of persons the ship is permitted to carry.

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

(6) In respect of any voyage commenced on or after 1st January 2000, the operator shall ensure that in addition to the system of counting all persons on board required by paragraphs (1) and (2), additional information comprising for each person on board the ship that person's -

- (a) family name;
- (b) forenames or initials;
- (c) gender;
- (d) 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

is collected before the ship departs from the landing point and communicated to the operator's registrar within 30 minutes of the ship's departure from the landing point. Any information submitted in accordance with sub-paragraph (e) shall be communicated to the Master before the ship departs from the landing point.

Registration system

5. (1) The operator of a Manx passenger ship shall -
- (a) establish a system, approved by the Department, for the registration of the information collected pursuant to these Regulations.
 - (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 the 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 maintained and readily available for transmission to the appropriate search and rescue services in an uncomplicated and easily comprehensible format for use in an emergency or in the aftermath of an accident involving the ship.

- (2) Any data collected by an operator in accordance with regulation 4(6) shall be
- (a) protected against unauthorised disclosure or access while it is retained by the operator;
 - (b) protected against alteration, destruction or loss while it is retained by the operator; and
 - (c) destroyed by the operator as soon as is practicable after the completion of the voyage to which it relates.

(3) The operator shall ensure that arrangements are in place which may include back up systems to ensure that the data required by these Regulations is secure and available under any circumstances.

Exemptions

6. The Department may exempt any passenger ship from the requirements of these Regulations, subject to such conditions (if any) as it may specify, and may, subject to giving reasonable notice, alter or cancel any exemption so granted.

False Statements

7. A person shall not, in connection with the system of counting the persons on board a passenger ship or collecting the information specified in regulation 4(6) -
- (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 4(6); or
 - (b) falsify the information collected or transmitted to the operator's passenger registrar.

Offences

8. (1) If there is any breach of the requirements of these Regulations in respect of a passenger ship the operator and, in respect of a breach of regulation 4(4) the master, shall be guilty of an offence punishable on summary conviction by a fine not exceeding £5,000 or on conviction on information by custody for a term not exceeding two years or a fine or both.

(2) Any person contravening regulation 7 shall be guilty of an offence punishable on summary conviction by a fine not exceeding £5,000 or on conviction on information by custody for a term not exceeding two years or a fine or both.

(3) 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.

(4) 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.

(5) For the purposes of paragraphs (3) and (4), “body corporate” includes a limited liability company constituted under the Limited Liability Companies Act 1996 ^(e) and, in relation to such a company, any reference to a director or other officer of a body corporate is a reference to a member and to the company’s manager and registered agent.

Defences

9. (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 commission of the offence.

(2) Without prejudice to paragraph (1), it shall be a good defence to a charge under regulation 7 for a person providing information in respect of other persons not being members of his family to the operator of a ship, being information required by the owner pursuant to these Regulations, to prove that the information was collected by him in good faith.

Made 4th. October, 1999

David North, M.H.K.

Minister for Trade and Industry.

(e) 1996 c. 19

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations apply to Manx passenger ships and to other passenger ships which take on passengers at landing points in the Isle of Man. The Regulations implement Chapter III, regulation 24-2 of the annex to the International Convention for the Safety of Life at Sea 1974. The Regulations revoke and replace the Merchant Shipping (Passenger Counting and Recording Systems) Regulations 1991 (GC 71/91).

The Regulations require the operator of a passenger ship to operate passenger counting and recording system for all voyages on which passengers are carried. In the case of a Manx passenger ship, the system must be approved by the Department of Trade and Industry, and in the case of a non-Manx passenger ship, the system must be approved by the Administration of the ship's Flag State. Supplementary arrangements are to be made for the determination of the numbers of passengers who remain on board the ship from a previous voyage. The operator is required to appoint a passenger registrar and establish a system for the registration of information collected in accordance with the Regulations. Details of the passengers and crew on board on a particular voyage must be communicated ashore before departure to the operator's passenger registrar.

With effect from the 1st January 2000, the operator is required to record the following information for each person on board the ship-

- (a) family name;
- (b) forenames or initials;
- (c) gender;
- (d) age category (e.g. adult, child or infant); and
- (e) if volunteered by a person, any information concerning the need for special care or assistance in emergency situations.

The Regulations make it an offence for a ship to leave its berth before the total number of passengers on board has been determined by means of the passenger counting system and the master informed. It is also an offence for any person to make a false statement in connection with the passenger counting system, or to falsify the documentation.