



Jersey

**SHIPPING (SURVEY AND  
CERTIFICATION) (No. 2) (JERSEY)  
ORDER 2005**

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Jersey

## SHIPPING (SURVEY AND CERTIFICATION) (No. 2) (JERSEY) ORDER 2005

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Jersey

## SHIPPING (SURVEY AND CERTIFICATION) (No. 2) (JERSEY) ORDER 2005

**THE HARBOURS AND AIRPORT COMMITTEE**, in pursuance of Articles 29, 49 and 196 of the Shipping (Jersey) Law 2002<sup>1</sup> and Regulation 1 of the Shipping (SOLAS) (Jersey) Regulations 2004<sup>2</sup>, orders as follows –

Commencement [[see endnotes](#)]

### **1 United Kingdom Merchant Shipping (Survey and Certification) Regulations 1995 to apply in Jersey**

- (1) The Merchant Shipping (Survey and Certification) Regulations 1995 of the United Kingdom, as for the time being applicable to the United Kingdom, shall apply to Jersey as part of the law of Jersey.
- (2) The Regulations shall apply as if –
  - (a) in regulation 1(2), in the definition “appropriate Certifying Authority” for the words “Secretary of State” (first, third and fourth times appearing) there were substituted the words “Minister or Secretary of State”;
  - (b) in regulation 1(2) after the definition “EEA State” there were included the following definition –

“ ‘high speed passenger craft’ means a passenger craft capable of a maximum speed in metres per second (m/s) equal to or exceeding:  $3.7\sqrt{0.1667}$  where  $\nabla$  = volume of displacement corresponding to the design waterline (m<sup>3</sup>) but does not include a craft the hull of which is supported clear above the water surface in non displacement mode by aerodynamic forces generated by ground effect.”;
  - (c) in regulation 1(2) after the definition “mile” there were included the following definition –

“ ‘Minister’ means the Minister for Economic Development.”;

- (ca) in regulation 1(2), in the definition “pleasure vessel” after the word “wife” in both places where it appears there shall be inserted the words “or civil partner”;
- (d) paragraphs (4) to (10) (inclusive) of regulation 1 were omitted;
- (e) for regulation 2 there were substituted the following regulation –

#### **“Application and exemptions**

- 2.-(1) Except as otherwise provided by this regulation, these Regulations apply to Jersey ships and to other ships whilst they are in Jersey territorial waters.
- (2) They do not apply to –
  - (a) fishing vessels;
  - (b) ships in commercial use to which the Shipping (Safety Codes) (Jersey) Order 2005<sup>3</sup> apply; or
  - (c) pleasure vessels.
- (3) The Minister may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.”;
- (f) for regulations 3, 4, 4A, 5, 6, and 7 there were substituted the following regulations –

#### **“Responsibility for carrying out surveys**

- 3.-(1) Except as provided in sub-paragraph (2) below, surveys of ships shall be carried out by a surveyor appointed by an appropriate Certifying Authority.
- (2)
  - (a) In respect of surveys of radio installations –
    - (i) surveys in a port in Jersey in respect of passenger ships shall be carried out by a surveyor appointed by an appropriate Certifying Authority in relation to radio installations for cargo ships;
    - (ii) where a survey is to be carried out at a port outside Jersey, it shall be carried out, at the option of the ship owner, by –
      - (a) a surveyor appointed by an appropriate Certifying Authority in relation to radio installations for cargo ships, or
      - (b) if the port is in a country or area in respect of which the Minister or Secretary of State has appointed a local surveyor, by that local surveyor.
  - (b) Subject to sub-paragraph (d) below, surveys –

- (i) in a port in Jersey, or in the territorial waters thereof, of safety equipment of cargo ships; and
    - (ii) of ro-ro passenger ships,shall be carried out by a surveyor appointed by the Minister.
  - (c) Surveys of passenger ships, other than ro-ro passenger ships, may be carried out by a surveyor appointed by another Certifying Authority authorised for that purpose by the Minister.
  - (d) Surveys of radio-navigational equipment may at the option of the owner be carried out by an appropriate Certifying Authority in relation to radio installations for cargo ships.
- (3) Where in accordance with this regulation a survey has been carried out by a surveyor appointed by a particular appropriate Certifying Authority, the subsequent references to a Certifying Authority in relation to that survey or to any certificate issued as a result of it, are to that Certifying Authority.

#### **Surveys of passenger ships**

4. Subject to regulation 4A, a Jersey passenger ship shall be subject to the following surveys –
- (a) before the ship is put in service, a passenger ship initial survey as set out in Merchant Shipping Notice M 1751,
  - (b) before the end of every period of 12 months following the issue of the ship's Passenger Ship Safety Certificate, a passenger ship renewal survey as set out in Merchant Shipping Notice M 1751,
  - (c) two inspections of the ship's bottom, out of the water, to take place –
    - (i) within any five year period, and
    - (ii) at intervals not exceeding 36 months, and
  - (d) after a repair resulting from investigations prescribed in regulation 8(2) below, or whenever any important repairs or renewals are made, an additional survey as set out in Merchant Shipping Notice M 1751.

#### **Surveys of passenger ships to which the Directive applies**

- 4A.-(1) A Jersey passenger ship to which the Directive applies shall be subject to a passenger ship initial survey as set out in the Directive before it is put into service.
- (2) A Jersey passenger ship to which the Directive applies shall be subject to a periodical survey as set out in the Directive.
  - (3) A Jersey passenger ship to which the Directive applies shall be subject to additional surveys as set out in the Directive.

- (4) In this regulation ‘a Jersey ship to which the Directive applies’ means a Jersey ship that is a new passenger ship, an existing passenger ship of 24 metres in length and above or a high speed passenger craft, when engaged on a domestic voyage.”;
- (g) in regulation 8 for “United Kingdom ship” (twice appearing) there were substituted “Jersey ship”, for “the United Kingdom” there were substituted “Jersey” and for “regulations 4 to 7” there were substituted “regulation 4 and 4A”;
- (h) in regulation 9 for the words “Secretary of State” (twice appearing) there were substituted the word “Minister” and for the words “United Kingdom ships” there were substituted the words “Jersey ships”;
- (i) regulation 10 were omitted;
- (j) for regulations 11, 12 and 13 there were substituted the following regulations –

#### **“Issue of certificates to Jersey ships not engaged on international voyages**

- 11. When a survey, or surveys, to meet the requirements set out in these Regulations are satisfactorily completed –
  - (a) the Minister shall issue, in the case of a Jersey passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or
  - (b) the Minister may recognise, at his discretion, a similar Certificate issued by the Maritime and Coastguard Agency.

#### **Form of Certificates**

- 12.-(1) A Passenger Certificate shall indicate compliance with the provisions of any maritime legislation currently in force in Jersey and state –
  - (a) the limits (if any) beyond which the ship is not fit to ply;
  - (b) the number of passengers which the ship is fit to carry;
  - (c) any condition with which the ship has to comply.
- (2) If the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 apply to the ship to which the Passenger Certificate relates, the Passenger Certificate shall be in the form laid down in Annex II of the Directive.

#### **Duration and validity of certificates**

- 13.-(1) Where an annual, intermediate or periodical survey is completed before the period prescribed as respects such a survey in regulations 4 and 4A above –
  - (a) the anniversary date shown on the Passenger Ship Safety certificate shall be amended by endorsement to a date which



- shall not be more than three months later than the date on which the survey was completed,
  - (b) subsequent annual, intermediate or periodical surveys required under regulations 4 and 4A above shall be completed at the intervals prescribed by those regulations using the new anniversary date, and
  - (c) the expiry date may remain unchanged provided one or more annual, intermediate or periodical surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by regulations 4 and 4A are not exceeded.
- (2) The duration of certificates issued under regulation 11 above shall be for a period of validity not exceeding 12 months.
  - (3) A Convention Certificate and a certificate issued under regulation 11 above shall cease to be valid –
    - (a) if its period of validity has been exceeded and the certificate has not been extended by the appropriate Certifying Authority in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies,
    - (b) if the relevant surveys and inspections have not been completed within the periods specified in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies, and the certificate has either not been extended in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies, or the period of any such extension has expired, or
    - (c) upon transfer of the ship to the flag of another State.”;
  - (k) in regulation 14(1) the words “in addition to any Certificate issued under regulation 10” were omitted;
  - (l) in regulation 15(1), the words “under regulations 5 to 7 above” were omitted;
  - (m) in regulation 15(2), the words “required under regulations 5 to 7” were omitted;
  - (n) in regulation 15(3), the words “required under regulations 5 to 7” were omitted;
  - (o) regulation 15(5) were omitted;
  - (p) regulations 16, 17 and 18 were omitted;
  - (q) in regulation 19 for the words “Secretary of State” (2 times appearing) there were substituted the word “Minister”, for the words “United Kingdom ship” there were substituted the words “Jersey ship” and paragraph (3)(f) were omitted;
  - (r) for regulation 21 there were substituted the following regulation –

**“Prohibition on proceeding to sea without the appropriate documentation**

- 21.**-(1) A ship registered in a country to which the 1974 SOLAS Convention applies shall not proceed to sea from a port in Jersey unless there is in force such Convention certificates that would be required if the ship were a United Kingdom ship. The extension provisions in regulation 15 shall apply to such certificates as if the ship were a Jersey or United Kingdom ship and the Government of the country in which the ship is registered is substituted for the Minister.
- (2) A ship registered in a country to which the 1974 SOLAS Convention does not apply shall not proceed to sea from a port in Jersey unless the ship is in the possession of documentation that shows that the ship has been surveyed for compliance with the appropriate Jersey or United Kingdom regulations.
- (3) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with, or, as the case may be, that the ship only operates in the specified sea areas.
- (4) The master of every ship shall produce to an officer of customs from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this regulation.
- (5) The master of every ship shall produce to the Harbour Master or one of his deputies, the certificates or documentation referred to in this regulation whenever reasonable requested so to do.
- (6) In this regulation reference to a Convention certificate in respect of a high speed passenger vessel includes a reference to the requirement laid down in Regulation 3 of Chapter X of the SOLAS Convention.”;
- (s) for regulation 22(1A) there were substituted the following paragraph –
- “(1A) For the purposes of paragraph (1) above, the Minister may recognise a certificate issued in respect of a ship of Class A, B, C or D or equivalent by a Member State of the E.U or an EEA State.”;
- (t) for regulations 24 and 25 there were substituted the following regulations –

**“Penalties**

- 24.**-(1) If a ship to which these Regulations apply proceeds or attempts to proceed to sea or on a voyage or excursion without complying with the requirements of these Regulations, the owner and master of the ship shall each be guilty of an offence and liable to a fine.
- (2) Any contravention of regulation 8(1), 21 paragraphs (1) to (4) or 22 shall be an offence by both the owner and master and shall be punishable on conviction by a fine.

- (3) Any contravention of regulation 19(3) shall be an offence, punishable on conviction by a fine.
- (4) If a ship proceeds to sea without regulation 20 being complied with, the owner and master shall each be guilty of an offence punishable on conviction by a fine.
- (5) Any contravention of regulation 23 shall be an offence by both the owner and master and shall be punishable by a fine.
- (6) Any contravention of regulation 21(5) shall be an offence by the master and shall be punishable on conviction by a fine.
- (7) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to ensure that the Regulations were complied with.

### **Powers to detain**

- 25.**-(1) In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the Shipping (Jersey) Law 2002 (which relate to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as if for the words ‘this Law’, wherever they appear, there were substituted ‘the Shipping (Survey and Certification) (Jersey) (No. 2) Order 2005’.”.
- (u) for regulation 26(3)(b) there were substituted the following subparagraph –
    - “(b) be an advocate or solicitor in Jersey, Guernsey or Scotland of at least 10 years standing; or”.<sup>4</sup>

## **2 United Kingdom Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 to apply in Jersey**

- (1) The United Kingdom Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000, as for the time being applicable to the United Kingdom, shall apply to Jersey as part of the law of Jersey.
- (2) They shall apply as if –
  - (a) in regulation 2(1), for the definition “domestic voyage” there were substituted the following definition –
    - “ ‘domestic voyage’ means a voyage in sea areas from a port in Jersey to the same or another port in Jersey;”;
  - (b) in regulation 2(1) after the definition “Merchant Shipping Notice” there were included the following definition –
    - “ ‘Minister’ means the Minister for Economic Development;”;
  - (c) in regulation 2(1) for the definition “non-United Kingdom passenger ship” there were substituted the following definition –
    - “ ‘non-Jersey passenger ship’ means a passenger ship which is not a Jersey ship;”;

- (d) in regulation 2(2) the words “(which is defined in paragraph (1) above to include voyages in EEA States)” were omitted;
- (e) in regulation 2(4) for the words “Secretary of State” there were substituted the word “Minister”;
- (f) for regulation 3(2) there were substituted the following –
  - “(2) For the purposes of the classification of vessels in accordance with paragraph (1) above, all ships operating in Jersey waters shall be classified as either Class A or Class B.”;
- (g) in regulation 4(1) for the words “United Kingdom passenger ship” (4 times appearing) there were substituted the words “Jersey passenger ship” and for the words “the United Kingdom” (twice appearing) there were substituted the word “Jersey”;
- (h) for regulation 4(2)(g) there were substituted the following –
  - “(g) subject to paragraph (3) below, a high speed craft to which the Merchant Shipping (High Speed Craft) Regulations 2004 would apply if the craft were a United Kingdom ship operating in United Kingdom waters; or”;
- (i) in regulation 5(1) for the words “cease to apply on” there were substituted the words “apply as if the ship were operating in United Kingdom waters until”;
- (j) for regulation 6(3) there were substituted the following –
  - “(3) Where the Minister considers that the operation on a domestic voyage of a ship to which these Regulations apply creates a risk of serious danger to safety of life or property or to the environment, notwithstanding the fact that the ship complies with the requirements of the Directive specified in relation to a ship of its Class, the Minister may –
    - (a) suspend the ship from operating on domestic voyages in Jersey waters; or
    - (b) impose additional safety conditions upon the continued operation of the ship in Jersey,until such time as he considers that the danger is removed.”;
- (k) in regulation 6(4) for the words “United Kingdom” there were substituted the word “Jersey”;
- (l) regulation 6(5) were omitted;
- (m) for regulations 7, 7A, 7B, 7C, 8, 9 and 10 there were substituted the following regulations –

**“Alternative construction, equipment and machinery**

- 7.-(1) Where these Regulations require that the hull or machinery of a ship shall be constructed in a particular manner, or that particular equipment shall be provided, or particular provision made, the Minister may approve the hull or machinery of the ship to be constructed in any other manner or any other equipment to be provided or other provision made, if he is satisfied by trial thereof

or otherwise that that other construction or equipment or provision is at least as effective as that required by these Regulations.

- (2) For the purpose of these Regulations, the results of verifications and tests carried out by the bodies and laboratories of other EEA States offering suitable and satisfactory guarantees of technical and provisional competence and independence shall be accepted.

#### **Safety requirements for persons with reduced mobility**

- 7A.** The Minister shall co-operate with and consult organisations representing persons with reduced mobility on the implementation of the guidelines included in Annex III to the Directive.

#### **Exemptions**

- 8.** The Minister may, subject to such conditions as he may specify, exempt classes of ships or individual ships from specified provisions of these Regulations, and may alter or cancel any such exemption.

#### **Penalties**

- 9.-(1)** A contravention of these Regulations in respect of a ship shall be an offence by both the owner and the master of that ship punishable by imprisonment for a term not exceeding 2 years and a fine.
- (2) It shall be a defence for a person charged under these Regulations to show that he took all reasonable steps to avoid the commission of the offence.

#### **Detention**

- 10.** In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the Shipping (Jersey) Law 2002 (which relates to the detention of a ship) shall have effect in relation to that ship, as if for the words 'this Law' wherever they appear, there were substituted the words 'the Shipping (Survey and Certification) (No. 2) (Jersey) Order 2005' ”.

### **3 Citation**

This Order may be cited as the Shipping (Survey and Certification) (No. 2) (Jersey) Order 2005.

**THE TEXT OF THE MERCHANT SHIPPING (SURVEY AND  
CERTIFICATION) REGULATIONS 1995, AS IN FORCE IN THE UNITED  
KINGDOM AT THE DATE OF THIS ORDER, AS MODIFIED BY THIS  
ORDER**

**IT IS SET OUT FOR INFORMATION ONLY AND DOES NOT FORM PART  
OF THE ORDER**

**Citation, commencement, interpretation, modification, revocation and  
supplemental**

1.-(1) These Regulations may be cited as the Merchant Shipping (Survey and Certification) Regulations 1995 and shall come into force on 1st June 1995.

(2) In these Regulations the following expressions have the following meanings respectively unless the context requires otherwise:

“1974 SOLAS Convention” means the International Convention for the Safety of Life at Sea, 1974, as amended in accordance with its Article VIII and as modified by its Protocol of 1978, as in force at the end of 1992, and by its Protocol of 1988 and the resolution of the Maritime Safety Committee of the International Maritime Organization published by that Organization as Resolution MSC.99(73) of December 2000;

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the relevant certificate;

“appropriate Certifying Authority” means:

- (a) in relation to passenger ships and safety equipment of cargo ships, the [Minister or Secretary of State];
- (b) in relation to cargo ships, except in relation to their radio installations and safety equipment, the Secretary of State or any person authorised by the [Minister or Secretary of State] and includes in particular (if so authorised) Lloyd’s Register of Shipping, the British Committee of Bureau Veritas, the British Committee of Det Norske Veritas, the British Committee of Germanischer Lloyd, and the British Technical Committee of the American Bureau of Shipping;
- (c) in relation to radio installations of cargo ships, any person authorised by the [Minister or Secretary of State];

“British Telecom” – [definition revoked];

“cargo ship” means any ship that is not a –

- (a) passenger ship;
- (b) ship of war;
- (c) fishing vessel; or a
- (d) pleasure vessel;

“Cargo Ship Safety Construction Certificate”, “Cargo Ship Safety Equipment Certificate”, “Cargo Ship Safety Radio Certificate”, “Cargo

Ship Safety Certificate” and “Passenger Ship Safety Certificate” means the certificates of those names issued pursuant to regulation 10;

“Class II(A) ship” means a passenger ship engaged on voyages other than international voyages, which is not –

- (i) a ship of Classes III to VI(A) as defined in the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998; or
- (ii) a ship of Class A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which is a new ship, engaged on domestic voyages, for the purposes of those Regulations;

“Convention Certificate” means a certificate issued in accordance with the requirements of the 1974 SOLAS Convention;

“the Directive” means Council Directive 98/18/EC of 17th March 1998 on Safety Rules and Standards for Passenger Ships as amended by Commission Directive 2002/25/EC of 5th March 2002 amending Council Directive 98/18/EC on safety rules and standards for passenger ships and as amended by Directive 2002/84/EC of the European Parliament and of the Council of 5th November 2002 amending the Directives on maritime safety and the prevention of pollution from ships and as amended by Commission Directive 2003/75/EC of 29th July 2003 amending Annex I to Council Directive 98/18/EC on safety rules and standards for passenger ships and by Directive 2003/24/EC of the European Parliament and of the Council of 14th April 2003 amending Council Directive 98/18/EC on safety rules and standards for passenger ships;

“EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993”

[“high speed passenger craft” means a passenger craft capable of a maximum speed in metres per second (m/s) equal to or exceeding:  $3.7 \nabla^{0.1667}$  where  $\nabla$  = volume of displacement corresponding to the design waterline (m<sup>3</sup>) but does not include a craft the hull of which is supported clear above the water surface in non displacement mode by aerodynamic forces generated by ground effect;]

“initial survey” – definition omitted;

“international voyage” means a voyage from a port in one country to a port in another country, either of the countries being a country to which the 1974 SOLAS Convention applies;

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

“Member State” means a Member State of the European Communities;

“Merchant Shipping Notice” means a Notice described as such, issued by the Marine Safety Agency, and includes a reference to any document amending or replacing that Notice which is considered by the Secretary

of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“mile” means an international nautical mile of 1852 metres;

[“Minister” means the Minister for Economic Development;]

“passenger” means any person carried on a ship except:

- (a) a person employed or engaged in any capacity 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 circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled,
- (c) a child of under one year of age;

“Passenger Certificate” and “United Kingdom Cargo Ship Safety Construction Certificate” mean the certificates of those names issued pursuant to regulation 11;

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

“pleasure vessel” means –

- (a) any vessel which at the time it is being used is:
  - (i)
    - (a) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
    - (b) in the case of a vessel owned by a body corporate, one on which the persons are employees or officers of the body corporate, or their immediate family or friends; and
  - (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
- (b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate family; and for the use of which any charges levied are paid into club funds and applied for the general use of the club; and
- (c) in the case of any vessel referred to in paragraph (a) or (b) above no other payments are made by or on behalf of the users of the vessel, other than by the owner;

and in this definition “immediate family” means, in relation to an individual, the husband or wife [or civil partner] of the individual, and a relative of the individual or the relative’s husband or wife [or civil



partner], and “relative” means brother, sister, ancestor or lineal descendant;

“proper officer” means a consular officer appointed by Her Majesty’s Government in the United Kingdom and, in relation to a port in a country outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

“radio installations” means any radio equipment other than radio navigational equipment on board a ship or provided in relation to the ship’s life-saving appliances;

“radio-navigational equipment” means the equipment required under regulation 5(2) of the Merchant Shipping (Safety of Navigation) Regulations 2002 and paragraphs 2.3.2, 2.3.3, 2.5.5, 2.7 and 2.8.1 of regulation 19 of Chapter V of the Annex to the 1974 SOLAS Convention;

“relevant regulations” – definition omitted;

“ro-ro passenger ship” means a passenger ship provided with cargo or vehicle spaces not normally subdivided in any way and extending to either a substantial length or the entire length of the ship in which vehicles or cargo can be loaded or unloaded in a horizontal direction;

“short international voyage” means an international voyage in the course of which a ship is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety. Neither the distance between the last port of call in which the voyage begins and the final port of destination nor the return voyage shall exceed 600 miles. The final port of destination is the last port of call in the scheduled voyage at which the ship commences its return voyage to the country in which the voyage began;

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature and its age shall be determined from the year of build as indicated on its certificate of registry;

“tons” means gross tons and a reference to tons:

- (a) in relation to a ship having alternative gross tonnages under paragraph 13 of Schedule 5 of the Merchant Shipping (Tonnage) Regulations 1982 is a reference to the larger of those two tonnages,
  - (b) in relation to a ship having its tonnage determined both under Part II and regulation 16 of those Regulations is a reference to its gross tonnage as determined under regulation 16 of those Regulations.
- (3) For the purpose of these Regulations, the Classes for passenger ships not engaged on international voyages are as defined in the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984.
- [(4) \* \* \* \* \*
- (5) \* \* \* \* \*
- (6) \* \* \* \* \*

- (7) \* \* \* \* \*
- (8) \* \* \* \* \*
- (9) \* \* \* \* \*
- (10) \* \* \* \* \*]

**[Application and exemptions]**

- 2.-(1) Except as otherwise provided by this regulation, these Regulations apply to Jersey ships and to other ships whilst they are in Jersey territorial waters.
- (2) They do not apply to –
  - (a) fishing vessels;
  - (b) ships in commercial use to which the Shipping (Safety Codes) (Jersey) Order 2005 apply; or
  - (c) pleasure vessels.
- (3) The Minister may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.]

**Validity of certain certificates**

- 2A.-(1) Except in special circumstances as determined by the Maritime and Coastguard Agency, a certificate issued before 8th June 2000 by:–
  - (a) an appropriate Certifying Authority, or
  - (b) the government of another country in accordance with regulation 16,shall remain valid until it expires in accordance with the provisions of these Regulations as in force before that date, and shall for any other purpose of these Regulations be treated as though it had been issued under these Regulations as amended.
- (2) Except in special circumstances agreed by the Administration of a country to which the 1974 SOLAS Convention applies, a Convention Certificate which was issued, by or on behalf of the government of such a country, before the date on which the 1988 Protocol takes effect as respects that country shall remain valid until it expires in accordance with the provisions of that Convention.

**[Responsibility for carrying out surveys]**

- 3.-(1) Except as provided in sub-paragraph (2) below, surveys of ships shall be carried out by a surveyor appointed by an appropriate Certifying Authority.
- (2)
  - (a) In respect of surveys of radio installations –
    - (i) surveys in a port in Jersey in respect of passenger ships shall be carried out by a surveyor appointed by an appropriate Certifying Authority in relation to radio installations for cargo ships;

- (ii) where a survey is to be carried out at a port outside Jersey, it shall be carried out, at the option of the ship owner, by –
      - (a) a surveyor appointed by an appropriate Certifying Authority in relation to radio installations for cargo ships, or
      - (b) if the port is in a country or area in respect of which the Minister or Secretary of State has appointed a local surveyor, by that local surveyor.
  - (b) Subject to sub-paragraph (d) below, surveys –
    - (i) in a port in Jersey, or in the territorial waters thereof, of safety equipment of cargo ships; and
    - (ii) of ro-ro passenger ships,  
shall be carried out by a surveyor appointed by the Minister.
  - (c) Surveys of passenger ships, other than ro-ro passenger ships, may be carried out by a surveyor appointed by another Certifying Authority authorised for that purpose by the Minister.
  - (d) Surveys of radio-navigational equipment may at the option of the owner be carried out by an appropriate Certifying Authority in relation to radio installations for cargo ships.
- (3) Where in accordance with this regulation a survey has been carried out by a surveyor appointed by a particular appropriate Certifying Authority, the subsequent references to a Certifying Authority in relation to that survey or to any certificate issued as a result of it, are to that Certifying Authority.

#### **Surveys of passenger ships**

4. Subject to regulation 4A, a Jersey passenger ship shall be subject to the following surveys –
- (a) before the ship is put in service, a passenger ship initial survey as set out in Merchant Shipping Notice M 1751,
  - (b) before the end of every period of 12 months following the issue of the ship's Passenger Ship Safety Certificate, a passenger ship renewal survey as set out in Merchant Shipping Notice M 1751,
  - (c) two inspections of the ship's bottom, out of the water, to take place –
    - (i) within any five year period, and
    - (ii) at intervals not exceeding 36 months, and
  - (d) after a repair resulting from investigations prescribed in regulation 8(2) below, or whenever any important repairs or renewals are made, an additional survey as set out in Merchant Shipping Notice M 1751.

#### **Surveys of passenger ships to which the Directive applies**

- 4A.-(1) A Jersey passenger ship to which the Directive applies shall be subject to a passenger ship initial survey as set out in the Directive before it is put into service.

- (2) A Jersey passenger ship to which the Directive applies shall be subject to a periodical survey as set out in the Directive.
- (3) A Jersey passenger ship to which the Directive applies shall be subject to additional surveys as set out in the Directive.
- (4) In this regulation 'a Jersey ship to which the Directive applies' means a Jersey ship that is a new passenger ship, an existing passenger ship of 24 metres in length and above or a high speed passenger craft, when engaged on a domestic voyage.]

**Responsibilities of owner and master**

- 8.-(1) The owner and master of every ship to which this regulation applies shall ensure that:
- (a) the condition of the ship and its equipment shall be maintained to conform with the provisions of regulations 4 and 4A to ensure that the ship in all respects will remain fit to proceed to sea without danger to the ship or persons on board,
  - (b) after any survey of the ship required by these Regulations has been completed, no change shall be made in the structural arrangements, machinery, equipment and other items covered by the survey, without the approval of the appropriate Certifying Authority, except by direct replacement, and
  - (c) whenever an accident occurs to a ship or a defect is discovered, either or which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment:
    - (i) it is reported at the earliest opportunity to the appropriate Certifying Authority, or a proper officer, and
    - (ii) if a Jersey ship is in such a case in a port outside Jersey it is also reported to the appropriate authorities of the country in which the port is situated.
- (2) Whenever an accident or defect is reported to the Certifying Authority or to a proper officer under paragraph (1)(c)(i) above, the Certifying Authority or proper officer shall cause investigations to be initiated to determine whether or not a survey by a surveyor is necessary and shall, if it is found necessary, require such a survey to be carried out.
- (3) This regulation applies to:
- (a) Jersey ships, and
  - (b) except as regards paragraph (1)(a) above, other ships which have been surveyed pursuant to these Regulations.

**Procedure to be adopted when the ship, including its structure, machinery and equipment, is deficient**

- 9.-(1) In any case where a surveyor determines that the condition of a ship to which this regulation applies, including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in these Regulations or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master of the corrective

action which in his opinion is required, and shall notify the Certifying Authority.

- (2) If such corrective action is not taken within such a period (being a reasonable period) as a surveyor of the Maritime and Coastguard Agency or the Certifying Authority may specify, the surveyor, or Certifying Authority, shall, at the end of that time, immediately notify the [Minister] who may, on receipt of such notification, suspend the validity of the particular certificate issued to the ship. The [Minister] shall give notice of any such suspension to the owner, to the surveyor, and to the Certifying Authority who in turn shall notify the master.
- (3) This regulation applies only to [Jersey ships] and other ships which have been surveyed pursuant to these Regulations.

[10. \* \* \* \* \*]

#### **[Issue of certificates to Jersey ships not engaged on international voyages]**

11. When a survey, or surveys, to meet the requirements set out in these Regulations are satisfactorily completed –
  - (a) the Minister shall issue, in the case of a Jersey passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or
  - (b) the Minister may recognise, at his discretion, a similar Certificate issued by the Maritime and Coastguard Agency.

#### **Form of Certificates**

- 12.-(1) A Passenger Certificate shall indicate compliance with the provisions of any maritime legislation currently in force in Jersey and state –
  - (a) the limits (if any) beyond which the ship is not fit to ply;
  - (b) the number of passengers which the ship is fit to carry;
  - (c) any condition with which the ship has to comply.
- (2) If the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 apply to the ship to which the Passenger Certificate relates, the Passenger Certificate shall be in the form laid down in Annex II of the Directive.

#### **Duration and validity of certificates**

- 13.-(1) Where an annual, intermediate or periodical survey is completed before the period prescribed as respects such a survey in regulations 4 and 4A above –
  - (a) the anniversary date shown on the Passenger Ship Safety certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed,
  - (b) subsequent annual, intermediate or periodical surveys required under regulations 4 and 4A above shall be completed at the

intervals prescribed by those regulations using the new anniversary date, and

- (c) the expiry date may remain unchanged provided one or more annual, intermediate or periodical surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by regulations 4 and 4A are not exceeded.
- (2) The duration of certificates issued under regulation 11 above shall be for a period of validity not exceeding 12 months.
- (3) A Convention Certificate and a certificate issued under regulation 11 above shall cease to be valid –
- (a) if its period of validity has been exceeded and the certificate has not been extended by the appropriate Certifying Authority in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies,
  - (b) if the relevant surveys and inspections have not been completed within the periods specified in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies, and the certificate has either not been extended in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies, or the period of any such extension has expired, or
  - (c) upon transfer of the ship to the flag of another State.]

#### **Issue and duration of Exemption Certificates**

- 14.-(1) When an exemption is granted to a ship in accordance with the relevant regulations applicable to the ship, a certificate called an Exemption Certificate shall be issued [\* \* \* \* \*].
- (2) An Exemption Certificate shall be issued for a period of validity that is not longer than the period of validity of the certificate to which it refers.
- (3) An Exemption Certificate shall be subject to the same extension and other provisions as the certificate to which it refers.
- (4) Where an Exemption Certificate has been issued, a statement to this effect shall be included on the certificate to which it refers.

#### **Extension and other provisions**

- 15.-(1) Where a Convention Certificate other than a Passenger Ship Safety Certificate has been issued for a period of validity of less than five years and the surveys required have been satisfactorily completed, the appropriate Certifying Authority may extend the validity of that Certificate so that the certificate is valid for a maximum period of five years.
- (2) Where a renewal survey has been satisfactorily completed before the expiry of the relevant Convention Certificate but the new certificate cannot be issued or placed on board the ship before the expiry of the existing certificate, the appropriate Certifying Authority may endorse the existing certificate as valid for a period not exceeding 5 months from the expiry date.

- (3) Where a renewal survey has not been satisfactorily completed before the expiry of the relevant Convention Certificate and at the time of expiry the ship is not in a port in which it is to be surveyed, the appropriate Certifying Authority may, where it appears to it proper and reasonable to do so, extend the validity of the certificate solely for the purpose of allowing the ship to complete its voyage to its port of survey.
- (4) Where no other extension has been granted, the appropriate Certifying Authority may extend the validity of a Convention Certificate of ships used solely on short international voyages for a period of no more than one month.
- [(5) \* \* \* \* \*]

#### **Issue and endorsement of Certificates by another Government**

[16. \* \* \* \* \*]

[17 \* \* \* \* \*]

[18. \* \* \* \* \*]

#### **Cancellation of a certificate**

- 19.-(1) The [Minister] may cancel a certificate issued to a [Jersey Ship] where he has reason to believe that:
- (a) the certificate was issued on false or erroneous information;
  - (b) since any survey required by these Regulations, the structure, equipment or machinery has sustained damage or is otherwise deficient.
- (2) The [Minister] may require that a certificate issued to a [Jersey ship] which has expired or has been cancelled be surrendered, as directed.
- (3) No person shall:
- (a) intentionally alter a certificate referred to in these Regulations;
  - (b) intentionally make a false certificate referred to in these Regulations;
  - (c) in connection with any survey required by these Regulations, knowingly or recklessly furnish false information;
  - (d) with intent to deceive, use, lend, or allow to be used by another, a certificate referred to in these Regulations;
  - (e) fail to surrender a certificate required to be surrendered under paragraph (2) above; or
  - [(f) \* \* \* \* \*]

### **Availability of certificates**

20. The owner and master of every ship issued with a Convention Certificate shall ensure that it is readily available on board for examination at all times.

### **[Prohibition on proceeding to sea without the appropriate documentation**

- 21.-(1) A ship registered in a country to which the 1974 SOLAS Convention applies shall not proceed to sea from a port in Jersey unless there is in force such Convention certificates that would be required if the ship were a United Kingdom ship. The extension provisions in regulation 15 shall apply to such certificates as if the ship were a Jersey or United Kingdom ship and the Government of the country in which the ship is registered is substituted for the Minister.
- (2) A ship registered in a country to which the 1974 SOLAS Convention does not apply shall not proceed to sea from a port in Jersey unless the ship is in the possession of documentation that shows that the ship has been surveyed for compliance with the appropriate Jersey or United Kingdom regulations.
- (3) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with, or, as the case may be, that the ship only operates in the specified sea areas.
- (4) The master of every ship shall produce to an officer of customs from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this regulation.
- (5) The master of every ship shall produce to the Harbour Master or one of his deputies, the certificates or documentation referred to in this regulation whenever reasonable requested so to do.
- (6) In this regulation reference to a Convention certificate in respect of a high speed passenger vessel includes a reference to the requirement laid down in Regulation 3 of Chapter X of the SOLAS Convention.]

### **Prohibition on proceeding on a voyage or excursion without the appropriate certificate**

- 22.-(1) A passenger ship of Class II(A), III, IV, V, VI or VI(A) or A, B, C or D shall not proceed on a voyage or excursion unless it has been surveyed and there is in force a Passenger Certificate appropriate to the ship's Class and applicable to that voyage or excursion.
- [(1A) For the purposes of paragraph (1) above, the Minister may recognise a certificate issued in respect of a ship of Class A, B, C or D or equivalent by a Member State of the E.U or an EEA State.]
- (2) Where a certificate is issued subject to conditions, the ship shall not proceed on a voyage or excursion unless all the conditions are complied with.



### **Limit on the number of passengers on passenger ships**

23. The owner and master of a passenger ship shall ensure that there is not on board a greater number of passengers than that stated on the ship's Passenger Ship Safety Certificate or Passenger Certificate.

### **[Penalties]**

- 24.-(1) If a ship to which these Regulations apply proceeds or attempts to proceed to sea or on a voyage or excursion without complying with the requirements of [\* \* \* \*] these Regulations, the owner and master of the ship shall each be guilty of an offence and liable to a fine.
- (2) Any contravention of regulation 8(1), 21 paragraphs (1) to (4) or 22 shall be an offence by both the owner and master and shall be punishable on conviction by a fine.
- (3) Any contravention of regulation 19(3) shall be an offence, punishable on by a fine.
- (4) If a ship proceeds to sea without regulation 20 being complied with, the owner and master shall each be guilty of an offence punishable on conviction by a fine.
- (5) Any contravention of regulation 23 shall be an offence by both the owner and master and shall be punishable by a fine.
- (6) Any contravention of regulation 21(5) shall be an offence by the master and shall be punishable on conviction by a fine.
- (7) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to ensure that the Regulations were complied with.

### **Powers to detain**

- 25.-(1) In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the Shipping (Jersey) Law 2002 (which relate to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as if for the words "this Law", wherever they appear, there were substituted "the Shipping (Survey and Certification) (No. 2) (Jersey) Order 2005".]

### **Arbitration**

- 26.-(1) Should an owner, or any other person making an application for a survey required by these Regulations, be dissatisfied with the outcome of the survey because the issue of a certificate has been refused or for any other reason, that person may serve notice, within twenty-one days of the completion of the survey, on the person responsible for issuing the particular certificate under regulation 11, that their dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by him.
- (2) A person shall not be qualified for appointment as an arbitrator under this regulation unless he is:

- (a) a person holding a certificate of competency as a Class 1 Deck Officer or as a Class 1 Marine Engineer Officer, or a person holding a certificate equivalent to any such certificate; or
  - (b) a naval architect; or
  - (c) a person falling within paragraph (3); or
  - (d) a person with special experience of the shipping industry; or
  - (e) a Member of the Chartered Institute of Arbitrators.
- (3) For the purposes of paragraph (2)(c) a person falls within this paragraph if:
- (a) he has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990
  - [(b) be an advocate or solicitor in Jersey, Guernsey or Scotland of at least 10 years standing; or]
  - (c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.
- (4) In connection with his functions under this regulation, an arbitrator shall have the powers of an inspector conferred by section 27 of the Merchant Shipping Act 1979;
- (5) In the application of this regulation to Scotland, any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in paragraph (1) to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of an agreement, appointed by a sheriff;
- (6) The Arbitration Act (Northern Ireland) 1937 shall apply in relation to an arbitrator in pursuance of this regulation as if this regulation related to a matter in respect of which the Parliament of Northern Ireland had powers to make laws.
- (7) The rules for arbitration are set out in Merchant Shipping Notice No. M 1613. These rules shall apply unless alternative procedures are agreed between the parties before the commencement of the arbitration proceedings.

Signed by authority of the Secretary of State for Transport

*Goschen*

Parliamentary Under-Secretary of State,

Department of Transport

28th April 1995

**THE TEXT OF THE MERCHANT SHIPPING (PASSENGER SHIPS ON DOMESTIC VOYAGES) REGULATIONS 2000, AS IN FORCE IN THE UNITED KINGDOM AT THE DATE OF THIS ORDER, AS MODIFIED BY THIS ORDER**

**IT IS SET OUT FOR INFORMATION ONLY AND DOES NOT FORM PART OF THE ORDER**

**Citation and commencement**

1. These Regulations may be cited as the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 and shall come into force on 23rd October 2000.

**Interpretation**

**2.-(1) In these Regulations –**

“the Directive” means Directive 98/18/EC of 17th March 1998 on Safety Rules and Standards for Passenger Ships as amended by

- (a) Commission Directive 2002/25/EC of 5th March 2002 amending Council Directive 98/18/EC on safety rules and standards for passenger ships;
- (b) Directive 2002/84/EC of the European Parliament and of the Council of 5th November 2002 amending the Directives on maritime safety and the prevention of pollution from ships; and
- (c) Commission Directive 2003/75/EC of 29th July 2003 amending Annex I to Council Directive 98/18/EC on safety rules and standards for passenger ships and
- (d) Directive 2003/24/EC of the European Parliament and of the Council of 14th April 2003 amending Council Directive 98/18/EC on safety rules and standards for passenger ships

in so far as the references in Directive 98/18/EC as so amended to the Conventions, Codes and System in their up-to-date versions:

- (i) relate to all or any of the purposes set out in section 85(1) of the Merchant Shipping Act 1995,
- (ii) are considered by the Secretary of State to be relevant from time to time, and
- (iii) are specified in a Merchant Shipping Notice.

“Directive 2003/25/EC” means Directive 2003/25/EC of the European Parliament and of the Council of 14th April 2003 on specific stability requirements for ro-ro passenger ships

[“domestic voyage” means a voyage in sea areas from a port in Jersey to the same or another port in Jersey;]

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

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

“Merchant Shipping Notice” means a Notice described as such, issued by the Maritime and Coastguard Agency, and any reference to a particular Merchant Shipping Notice 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;

[“Minister” means the Minister for Economic Development;]

[“non-Jersey passenger ship” means a passenger ship which is not a Jersey ship;]

“port waters” means waters categorised in Merchant Shipping Notice No. M 1719(M) on the Categorisation of Waters.

- (2) With the exception of the definition of “domestic voyage” [\* \* \* \* \*], words and expressions specifically given a meaning by article 2 of the Directive shall have the same meaning herein.
- (3) Where a ship is managed 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 person.
- (4) Any approval, exemption or suspension from operation made by the [Minister] 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.

### **Classification of ships**

- 3.-(1) For the purposes of these Regulations passenger ships engaged on domestic voyages shall be arranged in Classes as follows:

#### **Class A**

ships engaged solely on domestic voyages other than ships of Class B, Class C and Class D;

#### **Class B**

ships engaged solely on domestic voyages in the course of which they are at no time more than 20 miles from the line of the coast where shipwrecked persons can land, corresponding to the medium tide height;

#### **Class C**

ships engaged solely on domestic voyages in sea areas where the probability of significant wave heights exceeding 2.5 metres is less than 10% over a one year period for all year round operation, or over a specific restricted period of the year for operation exclusively in such period, in the course of which they are at no time more than 15 miles from a place of refuge, nor more than 5 miles from the line of the coast

where shipwrecked persons can land, corresponding to the medium tide height;

#### **Class D**

ships engaged solely on domestic voyages in sea areas where the probability of significant wave heights exceeding 1.5 metres is less than 10% over a one year period for all year round operation, or over a specific restricted period of the year for operation exclusively in such period, in the course of which they are at no time more than 6 miles from a place of refuge, nor more than 3 miles from the line of the coast, where shipwrecked persons can land, corresponding to the medium tide height.

- [(2) For the purposes of the classification of vessels in accordance with paragraph (1) above, all ships operating in Jersey waters shall be classified as either Class A or Class B.]

#### **Application**

4.-(1) These Regulations shall apply to –

- (a) a new [Jersey passenger ship] of Class A, B, C or D engaged on domestic voyages;
- (b) a new non-[Jersey passenger ship] of Class A, B, C or D engaged on domestic voyages within [Jersey];
- (c) an existing [Jersey passenger ship] of Class A, B, C or D of 24 metres or over in length which is described in column 1 of the table below, engaged on domestic voyages, from the date specified in relation to that description of ship in column 2 of that table; and
- (d) an existing non-[Jersey passenger ship] of Class A, B, C or D of 24 metres or over in length which is described in column 1 of the table below, engaged on domestic voyages within [Jersey], from the date specified in relation to that description of ship in column 2 of that table.

<i>column 1</i>	<i>column 2</i>
<i>Date on which the keel of the ship was laid, or at a similar stage of construction</i>	<i>Date from which these Regulations apply</i>
A ship the keel of which was laid, or at a similar stage of construction, before 1st January 1940	1st July 2006
A ship the keel of which was laid, or at a similar stage of construction, on or after 1st January 1940 but before 31st December 1962	1st July 2007
A ship the keel of which was laid, or at a similar stage of construction, on or after 31st December 1962 but before 31st December 1974	1st July 2008
A ship the keel of which was laid, or at a similar stage of construction, on or after 31st December 1974 but before 31st December 1984	1st July 2009

A ship the keel of which was laid, or at a similar stage of construction, on or after 31st December 1984 but before 1st July 1998	1st July 2010
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- (2) These Regulations shall not apply to –
- (a) a ship of war or a troopship;
  - (b) a ship not propelled by mechanical means;
  - (c) a vessel which is not constructed in steel or equivalent material, and
    - (i) to which the Merchant Shipping (High Speed Craft) Regulations 2004 do not apply, or
    - (ii) which is not a dynamically supported craft for the purposes of the Code of Safety for Dynamically Supported Craft adopted by the International Maritime Organisation by means of Resolution A.373(X) on 14th November 1977;
  - (d) a wooden ship of primitive build;
  - (e) an original historical passenger ship designed before 1965, or an individual replica of such a ship built predominately with the original materials;
  - (f) a pleasure yacht unless it is or will be crewed and carrying more than 12 passengers for commercial purposes;
  - [(g) subject to paragraph (3) below, a high speed craft to which the Merchant Shipping (High Speed Craft) Regulations 2004 would apply if the craft were a United Kingdom ship operating in United Kingdom waters; or]
  - (h) a vessel exclusively engaged in port waters.
- (3) Paragraph (2)(g) above shall not exclude from the application of these Regulations a passenger ship engaged on domestic voyages in sea areas of Class B, C or D when the displacement of that vessel corresponding to the design waterline is less than 500m<sup>3</sup> and the maximum speed of that vessel, as defined in paragraph 1.4.30 of the International Code of Safety for High-Speed Craft adopted by the Maritime Safety Committee of the International Maritime Organisation by resolution MSC.36.(63) on 20th May 1994 and amended by resolution MSC.119.(74) of 6th June 2001 and MSC Circular 1057 of 23rd December 2002, and includes any document amending it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice is less than 20 knots.
- (4) For the purposes of the application of these Regulations no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.
- (5) Subject to paragraph (6) below, paragraph (7) below shall apply to repairs, alterations and modifications of a major character, and related outfitting, carried out to an existing passenger ship.

- (6) Alterations made to an existing passenger ship which are intended solely to achieve a higher survivability standard shall not be regarded as modifications of a major character.
- (7) Repairs, alterations and modifications referred to in paragraph (5) above shall comply with the safety requirements of the Directive which apply to a new passenger ship of the same Class and which are relevant to the repair, alteration or modification.

#### **Application and amendment of existing Regulations**

- 5.-(1) In relation to an existing passenger ship of Class A, B, C or D of 24 metres or over in length engaged on domestic voyages which is described in column 1 of the table in regulation 4(1), the following Regulations shall [apply as if the ship were operating in United Kingdom waters until] the date specified as respects that description of ship in column 2 of that table –
  - (a) the Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998;
  - (b) the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998;
  - (c) the Merchant Shipping (Life-Saving Appliances for Ships Other Than Ships of Classes III to VI(A)) Regulations 1999;
  - (d) the Merchant Shipping (Life-Saving Appliances for Ships of Classes III to VI(A)) Regulations 1999;
  - (e) the Merchant Shipping (Fire Protection: Small Ships) Regulations 1998;
  - (f) the Merchant Shipping (Fire Protection: Large Ships) Regulations 1998;
  - (g) revoked;
  - (h) the Merchant Shipping (Radio Installations) Regulations 1998;
  - (i) the Merchant Shipping (Safety of Navigation) Regulations 2002.
- (2) The Regulations specified in the Schedule to these Regulations shall be amended as specified in that Schedule.

#### **Safety requirements**

- 6.-(1) Subject to paragraph (1B) below, a ship to which these Regulations apply shall comply with the safety requirements specified in the Directive in relation to a ship of its class.
- (1A) A ship which is less than 24 metres in length shall, in probable loading conditions and after correcting for the effect of free surface of liquids in tanks, satisfy the stability criteria set out in Schedule 1 of Merchant Shipping Notice 1699.”
- (1B) A ship of Class A or B the keel of which is laid or which is at a similar stage of construction before 1st October 2004:
  - (a) need not comply with the safety requirements contained in Articles 6, 8 and 9 of Directive 2003/25/EC, and

- (b) if it does not meet those requirements by 1st October 2010, must cease to operate as a passenger ship on 1st October 2015 or, if earlier, on the date on or after 1st October 2010 on which it reaches the age of 30 years.
- (2) In complying with paragraph (1) or (1A) above, as respects construction or maintenance of hull, main and auxiliary machinery and electrical and automatic plant, a ship shall comply with the standards specified in Merchant Shipping Notice No. M. 1672 which are relevant to it.
- (2A) In complying with paragraph (1) above a ship used for public transport:
  - (a) the keel of which was laid or which was at a similar stage of construction on or after 1st October 2004 shall, where practicable, be constructed and equipped, and display signs, based on the guidelines in Annex III to the Directive,
  - (b) the keel of which was laid or which was at a similar stage of construction before 1st October 2004 shall, if undergoing modification, be constructed and equipped as respects that modification, and display signs as respects that modification, based on the guidelines in Annex III to the directive as far as is reasonable and practicable in economic terms.
- [(3) Where the Minister considers that the operation on a domestic voyage of a ship to which these Regulations apply creates a risk of serious danger to safety of life or property or to the environment, notwithstanding the fact that the ship complies with the requirements of the Directive specified in relation to a ship of its Class, the Minister may –
  - (a) suspend the ship from operating on domestic voyages in Jersey waters; or
  - (b) impose additional safety conditions upon the continued operation of the ship in Jersey,until such time as he considers that the danger is removed.]
- (4) It shall be a contravention of these Regulations for a ship to operate in [Jersey] waters –
  - (a) otherwise than in compliance with any of the requirements of the Directive specified in relation to a ship of its Class; or
  - (b) in breach of a suspension of the operation of the ship or any conditions on the continued operation of the ship imposed under paragraph (3) above.
- [(5) \* \* \* \* \*]

**[Alternative construction, equipment and machinery]**

- 7.-(1) Where these Regulations require that the hull or machinery of a ship shall be constructed in a particular manner, or that particular equipment shall be provided, or particular provision made, the Minister may approve the hull or machinery of the ship to be constructed in any other manner or any other equipment to be provided or other provision made, if he is satisfied by trial thereof or otherwise that that other construction or equipment or provision is at least as effective as that required by these Regulations.



- (2) For the purpose of these Regulations, the results of verifications and tests carried out by the bodies and laboratories of other EEA States offering suitable and satisfactory guarantees of technical and provisional competence and independence shall be accepted.

**Safety requirements for persons with reduced mobility**

- 7A.** The Minister shall co-operate with and consult organisations representing persons with reduced mobility on the implementation of the guidelines included in Annex III to the Directive.

**Exemptions**

- 8.** The Minister may, subject to such conditions as he may specify, exempt classes of ships or individual ships from specified provisions of these Regulations, and may alter or cancel any such exemption.

**Penalties**

- 9.**-(1) A contravention of these Regulations in respect of a ship shall be an offence by both the owner and the master of that ship punishable by imprisonment for a term not exceeding 2 years and a fine.
- (2) It shall be a defence for a person charged under these Regulations to show that he took all reasonable steps to avoid the commission of the offence.

**Detention**

- 10.** In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the Shipping (Jersey) Law 2002 (which relates to the detention of a ship) shall have effect in relation to that ship, as if for the words “this Law” wherever they appear, there were substituted the words “the Shipping (Survey and Certification) (No. 2) (Jersey) Order 2005.”]

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

*Keith Hill*

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

29th September 2000

**SCHEDULE**

**Regulation 5**

**AMENDMENTS TO MERCHANT SHIPPING REGULATIONS**

**Amendments to the Passenger Ship Construction Regulations**

- 1.**-(1) The Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998 shall be amended as follows.

- (2) In regulation 2(6)(a), for the definition of Class II(A) ships there shall be substituted the following definition:

“Ships engaged on voyages of any kind other than international voyages, which are not –

- (i) ships of Classes III to VI(A) as defined in the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998; or
  - (ii) ships of Classes A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations.”.
- (3) In regulation 3(1), after the words “Subject to paragraphs (2) to (6) below” there shall be inserted the words “and to regulation 5(1) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (which relates to passenger ships of Class II(A) which are 24 metres or over in length and are existing ships, engaged on domestic voyages, for the purposes of those Regulations),”.

- 2.-(1) The Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998 shall be amended as follows.

- (2) In regulation 3, at the beginning, there shall be inserted the words “Subject to regulation 3A below, and to regulation (5)(1) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (which relates to passenger ships of Classes III, VI and VI(A) which are 24 metres or over in length and are existing ships, engaged on domestic voyages, for the purposes of those Regulations),”.

- (3) After regulation 3, there shall be inserted the following regulation:

“3A. These Regulations shall not apply to any passenger ship of Class III, VI or VI(A) which is a new ship, engaged on domestic voyages, for the purposes of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000.”.

#### **Amendments to the Life Saving Appliances Regulations**

- 3.-(1) The Merchant Shipping (Life-Saving Appliances for Ships Other Than Ships of Classes III to VI(A)) Regulations 1999 shall be amended as follows.

- (2) In regulation 3, for the definition of Class II(A) ships there shall be substituted the following definition:

“Ships engaged on voyages of any kind other than international voyages, which are not –

- (i) ships of Classes III to VI(A) as defined in the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998, or
- (ii) ships of Classes A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations.”.

- (3) In regulation 4(1), after the words “Subject to paragraph (2)” there shall be inserted the words “and to regulation 5(1) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (which relates to passenger ships of Class II(A) which are 24 metres or over in length and are existing ships, engaged on domestic voyages, for the purposes of those Regulations),”.
- 4.-(1)** The Merchant Shipping (Life-Saving Appliances for Ships of Classes III to VI(A)) Regulations 1999 shall be amended as follows.
  - (2) In regulation 4(1), at the beginning, there shall be inserted the words “Subject to regulation 4A below, and to regulation 5(1) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (which relates to passenger ships of Classes III, VI and VI(A) which are 24 metres or over in length and are existing ships, engaged on domestic voyages, for the purposes of those Regulations),”.
  - (3) After regulation 4, there shall be inserted the following regulation:

“**4A.** These Regulations shall not apply to any passenger ship of Class III, VI or VI(A) which is a new ship, engaged on domestic voyages, for the purposes of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000.”.

#### **Amendments to the Fire Protection Regulations**

- 5.-(1)** The Merchant Shipping (Fire Protection: Large Ships) Regulations 1998 shall be amended as follows.
  - (2) In regulation 1(7)(a)(i), after the words “and to (8)(b),” there shall be inserted the words “and to regulation 5(1) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (which relates to passenger ships of Class II(A) which are 24 metres or over in length and are existing ships, engaged on domestic voyages, for the purposes of those Regulations),”.
  - (3) In regulation 2(1), for the definition of Class II(A) ships there shall be substituted the following definition:

“Ships engaged on voyages of any kind other than international voyages, which are not –

    - (i) ships of Classes III to VI(A) as defined in the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998; or
    - (ii) ships of Classes A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations.”.
- 6.-(1)** The Merchant Shipping (Fire Protection: Small Ships) Regulations 1998 shall be amended as follows.
  - (2) In regulation 1(7) –
    - (a) in paragraph (a)(i), after the words “paragraph (8)” there shall be inserted the words “, and to regulation 5(1) of the Merchant Shipping (Passenger Ships on Domestic Voyages)

Regulations 2000 (which relates to passenger ships of Classes III, VI and VI(A) which are 24 metres or over in length and are existing ships, engaged on domestic voyages, for the purposes of those Regulations);”;

- (b) in paragraph (b), after sub-paragraph (iv) there shall be added the following sub-paragraph:

“(v) any passenger ship of Class III, VI or VI(A) which is a new ship, engaged on domestic voyages, for the purposes of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000.”.

- (3) In regulation 2(1), for the definition of Class II(A) ships there shall be substituted the following definition:

“Ships engaged on voyages of any kind other than international voyages, which are not –

- (i) ships of Classes III to VI(A) as defined in the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998; or
- (ii) ships of Classes A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations.”.

#### **Amendments to the Survey and Certification Regulations**

- 7.-(1) The Merchant Shipping (Survey and Certification) Regulations 1995 shall be amended as follows.

- (2) In regulation 1(2), there shall be inserted the following definitions:

“ “Class II(A) ship” means a passenger ship engaged on voyages other than international voyages, which is not –

- (i) a ship of Classes III to VI(A) as defined in the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998; or
- (ii) a ship of Class A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which is a new ship, engaged on domestic voyages, for the purposes of those Regulations;”;

“the Directive” means Council Directive 98/18/EC of 17th March 1998 on Safety Rules and Standards for Passenger Ships;”;

“EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993”;

“Member State” means a Member State of the European Communities;”.

- (3) In regulation 4, at the beginning there shall be inserted the words “Subject to regulation 4A”.

- (4) After regulation 4, there shall be inserted the following regulation:

- “**4A.**-(1) A United Kingdom passenger ship to which the Directive applies shall be subject to a passenger ship initial survey as set out in the Directive –
- (a) where the ship is in service on 23rd October 2000, before 23rd October 2001 or, if a passenger ship renewal survey is carried out before that date, at the time of that renewal survey,
  - (b) where the ship is not in service on 23rd October 2000, before it is put into service, and
  - (c) where a ship which is in service on domestic voyages within the United Kingdom is put into service on domestic voyages in another Member State or an EEA State, before it is put into such service.
- (2) A United Kingdom passenger ship to which the Directive applies shall be subject to a periodical survey as set out in the Directive.
- (3) A United Kingdom passenger ship to which the Directive applies shall be subject to additional surveys as set out in the Directive.”.
- (4) In regulation 12, after paragraph (1), there shall be inserted the following paragraph:
- “(1A) If the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 apply to the ship to which the Passenger Certificate relates, the Passenger Certificate shall be in the form laid down in Annex II of the Directive.”.
- (5) In regulation 22 –
- (a) in paragraph (1), after the words “or VI(A)”, there shall be inserted the words “or A, B, C or D”;
  - (b) after paragraph (1) there shall be inserted the following paragraph:

“(1A) For the purposes of paragraph (1) above, the Secretary of State shall recognise a certificate issued in respect of a ship of Class A, B, C or D or equivalent by another Member State or an EEA State pursuant to article 11 of the Directive.”.

#### **Amendments to the Radio Installations Regulations**

- 8.**-(1) The Merchant Shipping (Radio Installations) Regulations 1998 shall be amended as follows.
- (2) In regulation 3(1), after the words “this regulation,” there shall be inserted the words “and to regulation 5(1) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (which applies to passenger ships of Classes A, B, C and D (as defined in those Regulations) which are 24 metres or over in length and are existing ships, engaged on domestic voyages, for the purposes of those Regulations),”.
- (3) In regulation 3(2) –
- (a) at the end of sub-paragraph (e) the word “and” shall be deleted, and

- (b) at the end of sub-paragraph (f) there shall be inserted:
  - “ , and
  - (g) ships which are passenger ships of Class A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations.”.
- (4) In regulation 3(5), after the words “Subject to” there shall be inserted the words “paragraph (5A) and”.
- (5) In regulation 3, after paragraph (5) there shall be inserted the following paragraph:

“(5A) Paragraph (5) shall not apply to passenger ships of Class A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations.”.

#### **Amendments to the Navigational Equipment Regulations**

- 9.-(1) The Merchant Shipping (Navigational Equipment) Regulations 1993 shall be amended as follows.
- (2) In regulation 2(3):
  - (a) at the beginning of the paragraph there shall be inserted the words “Subject to regulation 5(1) of the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (which relates to ships with Passenger Certificates of Classes II(A), III, VI and VI(A) which are 24 metres or over in length and are existing ships, engaged on domestic voyages, for the purposes of that Regulation),”;
  - (b) for sub-paragraph (b) there shall be substituted the following sub-paragraph:

“(b) United Kingdom passenger ships other than:

    - (i) ships having a Passenger Certificate of Class V, and
    - (ii) ships of Classes A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations; and”;
  - (c) in sub-paragraph (c), after the words “150 tons or over” there shall be inserted the words “, other than ships of Classes A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations,”.
- (3) In regulation 3(6), after the words “Class II(A) or III” there shall be inserted the words “(other than passenger ships of Class A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations)”.

- (4) In regulation 12(1) and (2) after the words “Class IV, VI or VI(A)” there shall be inserted the words “(other than passenger ships of Class A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which are new ships, engaged on domestic voyages, for the purposes of those Regulations)”.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Shipping (Survey and Certification) (No. 2) (Jersey) Order 2005	R&O.125/2005	9 December 2005
Civil Partnership (Consequential Amendments) (Jersey) Regulations 2012	R&O.47/2012	2 April 2012

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
3	Spent, omitted
4(1)	3
4(2)	Spent, omitted

**Table of Endnote References**

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- <sup>1</sup> *chapter 19.885*  
<sup>2</sup> *chapter 19.885.75*  
<sup>3</sup> *chapter 19.885.72*  
<sup>4</sup> *Article 1(2) amended by R&O.47/2012*