



STATUTORY INSTRUMENTS.

S.I. No. 322 of 2011



EUROPEAN COMMUNITIES (PASSENGER SHIPS) REGULATIONS
2011

(Prn. A11/1143)

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ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement
2. Interpretation and application
3. Safety requirements — passenger ships
4. Safety requirements — high-speed passenger craft
5. Stability requirements and phasing out of ro-ro passenger ships
6. Safety requirements for persons with reduced mobility
7. Exemptions
8. Surveys — passenger ships
9. Surveys — high-speed passenger craft
10. Certificates — passenger ships
11. Certificates — high-speed passenger craft
12. Sections 25 and 26 of Act of 1992 to apply
13. Offences and penalties
14. Fees
15. Revocation

Schedule

FIRE APPLIANCES RULES

FIRE PROTECTION RULES

LIFE-SAVING APPLIANCES

PASSENGER SHIP CONSTRUCTION

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I, LEO VARADKAR, Minister for Transport, Tourism and Sport in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009¹, as amended by Commission Directive 2010/36/EU of 1 June 2010², hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Passenger Ships) Regulations 2011.

(2) These Regulations shall come into operation on 29 June 2011.

Interpretation and application

2. (1) In these Regulations—

“Act of 1952” means the Merchant Shipping (Safety Convention) Act 1952 (No. 29 of 1952);

“Act of 1955” means the Mercantile Marine Act 1955 (No. 29 of 1955);

“Act of 1959” means the Maritime Jurisdiction Act 1959 (No. 22 of 1959);

“Act of 1992” means the Merchant Shipping Act 1992 (No. 2 of 1992);

“Directive” means Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009¹ as amended by Commission Directive 2010/36/EU of 1 June 2010²;

“high-speed passenger craft” means a high-speed passenger craft to which the Directive applies engaged on a domestic voyage;

“internal waters of the State” shall be construed in accordance with section 5 of the Act of 1959;

“Irish high-speed passenger craft” means a high-speed passenger craft that is entitled to wear the proper national colours within the meaning of section 10 of the Act of 1955 or that is a ship to which section 18(3) of that Act applies;

¹ OJ No. L163, 25.6.2009, p.163

² OJ No. L162, 29.6.2010, p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 1st July, 2011.*

“Irish passenger ship” means a passenger ship that is entitled to wear the proper national colours within the meaning of section 10 of the Act of 1955 or that is a ship to which section 18(3) of that Act applies;

“maritime administration” in relation to a Member State (other than the State) or a third country, means the person who, in that Member State or third country, exercises functions the same as or similar to those exercised by the Minister under these Regulations;

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

“Minister” means the Minister for Transport, Tourism and Sport;

“passenger ship” means a passenger ship to which the Directive applies engaged on a domestic voyage;

“recognised organisation” means a recognised organisation to which an authorisation under the European Communities (Ship Inspection and Survey Organisations) Regulations 2011 (S.I. No. 275 of 2011) has been granted or continued;

“surveyor of ships” means a person appointed under section 724 of the Merchant Shipping Act 1894 to be a surveyor of ships for the purposes of that Act;

“territorial seas” means the territorial seas of the State for the purposes of the Act of 1959;

“third country” means a state other than a Member State.

(2) A word or expression that is used in these Regulations and that is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

(3) (a) These Regulations apply to the following passenger ships of Classes A, B, C and D, as defined in Article 4.1 of the Directive, regardless of their flag, when engaged on domestic voyages:

(i) new passenger ships;

(ii) existing passenger ships of 24 metres in length and above;

(iii) high-speed passenger craft.

(b) These Regulations shall have effect notwithstanding any provision to the contrary in regulations, rules or orders applying to passenger ships or any class of passenger ship immediately before the coming into operation of these Regulations.

(4) The instruments specified in the Schedule shall not apply to ships to which these Regulations apply.

Safety requirements — passenger ships

3. (1) Where, in respect of a new or existing Irish passenger ship—

- (a) the standards referred to in subparagraph (a) of Article 6.1 of the Directive, or
- (b) the provisions specified in subparagraph (b) or (c) of the said Article 6.1,

are not complied with, the owner, operator and master of the passenger ship concerned are each guilty of an offence.

(2) Where, in respect of a new Irish passenger ship—

- (a) the general requirements specified in subparagraph (a) of Article 6.2 of the Directive, or
- (b) the load line requirements specified in subparagraph (b) of the said Article 6.2,

are not complied with, the owner, operator and master of the passenger ship concerned are each guilty of an offence.

(3) Subject to subparagraph (f) of Article 6.3 of the Directive, the owner, operator and master of an existing Irish passenger ship of class A, engaged on a domestic voyage, in respect of which there has been a failure to comply with the Regulations or specific relevant requirements referred to in subparagraph (a) of the said Article 6.3, are each guilty of an offence.

(4) Subject to the said subparagraph (f), the owner, operator and master of—

- (a) an existing Irish passenger ship of Class B in respect of which, there has been a failure to comply with the specific relevant requirements referred to in subparagraph (b) of the said paragraph 3, or,
- (b) an existing Irish passenger ship of Class C or D in respect of which there has been a failure to comply with—
 - (i) the specific relevant requirements referred to in subparagraph (c) of that paragraph, or
 - (ii) such rules as are agreed by the maritime administration of the host state concerned and the Minister,

are each guilty of an offence.

(5) Where, in respect of an existing Irish passenger ship, there has been a failure to comply with subparagraph (e) of the said Article 6.3, the owner, operator and master of the passenger ship concerned are each guilty of an offence.

(6) References in this Regulation to an Irish passenger ship shall include references to a passenger ship, while in the internal waters of the State or the

territorial seas, that is entitled to fly the flag of a Member State (other than the State) or a third country, subject to the modification that, when so construing those references the reference in paragraph (4)(b)(ii) to “maritime administration of the host state” shall be construed as a reference to “the maritime administration of the flag state of the passenger ship concerned”.

Safety requirements — high-speed passenger craft

4. (1) Where, in respect of an Irish high-speed passenger craft, there has been a contravention of Article 6.4 of the Directive the owner, operator and master of the high-speed passenger craft concerned are each guilty of an offence.

(2) A reference in paragraph (1) to an Irish high-speed passenger craft shall include a reference to a high-speed passenger craft, while in the internal waters of the State or the territorial seas, that is entitled to fly the flag of a Member State (other than the State) or a third country.

Stability requirements and phasing out of ro-ro passenger ships

5. (1) Where, in respect of a ro-ro passenger ship of Class A, B, or C—

(a) the keel of which is, on or after 1 October 2004, laid or at a similar stage of construction, and

(b) there has been a failure to comply with Article 7(1) of the Directive,

then, the owner, operator and master of the ro-ro passenger ship concerned are each guilty of an offence.

(2) Where, in respect of a ro-ro passenger ship of Class A or B—

(a) the keel of which is, on or after 1 October 2004, laid or at a similar stage of construction, and

(b) there has been a failure to comply with Article 7(2) of the Directive,

then, the owner, operator and master of the ro-ro passenger ship concerned are each guilty of an offence.

Safety requirements for persons with reduced mobility

6. (1) Every owner, operator and master of a passenger ship of Class A, B, C or D and all high-speed passenger craft, used for public transport, the keel of which is laid or which are at a similar stage of construction on or after 1 October 2004, shall in respect of each such ship and craft, ensure that appropriate measures are taken, where practicable, to comply with Article 8 of the Directive.

(2) For the purpose of modification of passenger ships of Classes A, B, C and D and high-speed passenger craft, used for public transport, the keel of which is laid or which are at a similar stage of construction before 1 October 2004, the owner, operator and master of such vessels shall apply the guidelines in Annex III of the Directive as far as reasonable and practicable in economic terms.

Exemptions

7. (1) The Minister may, subject to paragraphs 3 and 4 of Article 9 of the Directive, grant an exemption from such provisions of these Regulations and the specific requirements of the Directive as are specified in the exemption concerned, in respect of such Irish passenger ships or high-speed passenger craft (other than ones to which section 18(3) of the Act of 1955 applies) as he or she considers appropriate.

(2) The Minister may, subject to Article 9.4 of the Directive attach such conditions to an exemption granted under this Regulation as he or she considers appropriate.

(3) An exemption granted by the Minister under paragraph (1) in respect of an Irish passenger ship shall be specified in the passenger ship safety certificate issued in respect thereof.

(4) An exemption granted by the Minister under paragraph (1) in respect of an Irish high-speed passenger craft shall be specified in the high speed craft safety certificate or Dynamically Supported Craft (hereafter referred to in these Regulations as “DSC”) Construction and Equipment Certificate, as the case may be, issued in respect thereof.

Surveys — passenger ships

8. (1) Each new Irish passenger ship shall, in addition to being surveyed in accordance with section 6 of the Act of 1992, be surveyed—

(a) before the passenger ship concerned is put into service, and

(b) at such other intervals as may be determined by the Minister.

(2) Each existing Irish passenger ship shall, in addition to being surveyed in accordance with section 6 of the Act of 1992, be surveyed—

(a) before the passenger ship concerned is put into service on domestic voyages in a host state, and

(b) at such other intervals as may be determined by the Minister.

(3) If in respect of an Irish passenger ship there is a failure or refusal to comply with paragraph (1) or (2), as may be appropriate, the owner, operator and master of the passenger ship concerned are each guilty of an offence.

(4) A survey to which this Regulation applies shall be carried out by a surveyor of ships or a recognised organisation.

(5) A survey under this Regulation shall be carried out in accordance with the relevant procedures and guidelines referred to in Article 12(4) of the Directive.

Surveys — high-speed passenger craft

9. (1) If in respect of an Irish high-speed passenger craft there is a failure to comply with the provisions of the High Speed Craft Code or the Code of Safety for Dynamically Supported Craft (hereafter referred to in these Regulations as “the DSC Code”), as may be appropriate, relating to the carrying out of surveys on such craft, the owner, operator and master of the high-speed passenger craft concerned are each guilty of an offence.

(2) A survey to which this Regulation applies shall be carried out by a surveyor of ships or a recognised organisation.

Certificates — passenger ships

10. (1) Sections 9, 10 and 11 (other than subsection (2)) of the Act of 1992 shall apply to a survey to which Regulation 8 relates as they apply to a survey to which Part II of that Act relates and references in those sections to a survey shall include references to a survey carried out under Regulation 8 or a survey referred to in Regulation 9.

(2) Section 8 of the Act of 1992 shall apply to a survey carried out on an Irish passenger ship referred to in Regulation 8 as it applies to a survey carried out under Part II of that Act as if—

- (a) there were substituted in subsection (1) “(which shall be known as a passenger ship safety certificate and is referred to in this Act as ‘a certificate’)” for “(which shall be known as a passenger ship certificate and is referred to in this Act as ‘a certificate’)”,
- (b) there were deleted in subsection (2) “or in another document given or sent to the holder of the certificate”, and
- (c) the following subsection was substituted for subsection (6), but without prejudice to the application of subsection 5(a) to offences committed under subsection 6(c) in relation to any other vessel by the owner of the Irish passenger ship concerned:

“(6) If in respect of an Irish passenger ship there is a failure or refusal to comply with a condition, restriction or requirement specified in the certificate relating to it, the owner, operator and master of the passenger ship concerned are each guilty of an offence and are each liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years or both.”,

and accordingly references in that section to a survey shall include references to a survey carried out on an Irish passenger ship.

(3) The owner, operator and master of a passenger ship entitled to fly the flag of a Member State (other than the State) or a third country that does not have on board a valid Passenger Ship Safety Certificate issued by the maritime administration of that Member State or third country, as the case may be, are, while the passenger ship concerned is in the internal waters of the State or territorial seas, each guilty of an offence.

Certificates — high-speed passenger craft

11. (1) Where, in relation to an Irish high-speed passenger craft, there is compliance with the requirements of the High Speed Passenger Craft Code, the Minister shall, in accordance with the provisions of that Code, issue to the owner of that craft—

(a) a High Speed Craft Safety Certificate, and

(b) a Permit to Operate High Speed Craft.

(2) The Minister may withdraw a High Speed Craft Safety Certificate, or a Permit to Operate High Speed Craft, issued by him or her under paragraph (1) where, in relation to the Irish high-speed passenger craft concerned, he or she is satisfied that there is a failure to comply with the requirements of the High Speed Passenger Craft Code.

(3) Where, in relation to an Irish high-speed passenger craft, there is compliance with the requirements of the DSC Code, the Minister shall, in accordance with the provisions of that Code, issue to the owner of that craft—

(a) a DSC Construction and Equipment Certificate, and

(b) a DSC Permit to Operate High Speed Craft.

(4) The Minister may withdraw a DSC Construction and Equipment Certificate, or a DSC Permit to Operate High Speed Craft, issued by him or her under paragraph (1) where, in relation to the Irish high-speed passenger craft concerned, he or she is satisfied that there is a failure to comply with the requirements of the DSC Code.

(5) The owner, operator and master of an Irish high-speed passenger craft that does not have on board—

(a) a valid—

(i) High Speed Craft Safety Certificate, and

(ii) Permit to Operate High Speed Craft, or

(b) a valid—

(i) DSC Construction and Equipment Certificate, and

(ii) DSC Permit to Operate High Speed Craft,

are each guilty of an offence.

(6) The owner, operator and master of a high-speed passenger craft that is entitled to fly the flag of a Member State (other than the State) or a third country that does not have on board—

(a) a valid—

- (i) High Speed Craft Safety Certificate, and
- (ii) Permit to Operate High Speed Craft, or

(b) a valid—

- (i) DSC Construction and Equipment Certificate, and
- (ii) DSC Permit to Operate High Speed Craft,

issued by the maritime administration of that Member State or third country shall, while the high-speed passenger craft concerned is in the internal waters of the State or the territorial seas, are each guilty of an offence.

Sections 25 and 26 of Act of 1992 to apply

12. Sections 25 and 26 of the Act of 1992 shall apply for the purposes of these Regulations subject to any necessary modifications.

Offences and penalties

13. (1) A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years or both.

(2) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) Proceedings for a summary offence under these Regulations may be brought and prosecuted by the Minister.

Fees

14. (1) The Minister may, with the consent of the Minister for Finance, prescribe by order (“fees order”) the fees to be charged for surveys carried out in accordance with Regulations 8 and 9 and certificates issued under Regulations 10 and 11.

(2) Fees of different amounts may be prescribed under this section in respect of the issue of certificates for, and surveys of vessels of different sizes for the purposes of Regulations 8 and 9.

(3) Section 6 of the Act of 1952 applies to fees payable under a fees order.

(4) A fees order does not apply in respect of inspections made or surveys carried out by a recognised organisation.

Revocation

15. The European Communities (Passenger Ships) Regulations 2004 (S.I. No. 716 of 2004) are revoked.

SCHEDULE

FIRE APPLIANCES RULES

Merchant Shipping (Fire Appliances) (Post-1980 Ships) Rules 1983 (S.I. No. 303 of 1983)

Merchant Shipping (Fire Appliances) (Amendment) Rules 1983 (S.I. No. 304 of 1983)

Merchant Shipping (Fire Appliances — Application to Other Ships) Rules 1983 (S.I. No. 305 of 1983)

Merchant Shipping (Fire Appliances) (Amendment) Rules 1985 (S.I. No. 277 of 1985)

Merchant Shipping (Fire Appliances) (Post-1980 Ships) (Amendment) Rules 1985 (S.I. No. 278 of 1985)

FIRE PROTECTION RULES

Merchant Shipping (Fire Protection) Rules 1985 (S.I. No. 279 of 1985)

Merchant Shipping (Fire Protection) (Amendment) Rules 1990 (S.I. No. 86 of 1990)

LIFE-SAVING APPLIANCES

Merchant Shipping (Life-Saving Appliances) (Amendment) Rules 1978 (S.I. No. 216 of 1978)

Merchant Shipping (Life-Saving Appliances) Rules 1983 (S.I. No. 302 of 1983)

Merchant Shipping (Life-Saving Appliances) Rules 1993 (S.I. No. 380 of 1993)

Merchant Shipping (Life-Saving Appliances) Rules 1983 (Amendment) (No. 2) Rules 1993 (S.I. No. 382 of 1993)

PASSENGER SHIP CONSTRUCTION

Merchant Shipping (Passenger Ship Construction) Rules 1983 (S.I. No. 300 of 1983)

Merchant Shipping (Passenger Ship Construction and Survey) Rules 1985 (S.I. No. 274 of 1985)

Merchant Shipping (Passenger Ship Construction Amendment) Rules 1989 (S.I. No. 97 of 1989)

Merchant Shipping (Passenger Ship Construction and Survey) (Amendment) Rules 1994 (S.I. No. 12 of 1994)

Merchant Shipping (Passenger Ship Construction and Survey) (Amendment No. 2) Rules 1994 (S.I. No. 131 of 1994)



GIVEN under my Official Seal,
28 June 2011.

LEO VARADKAR,
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give effect to Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 as amended by Commission Directive 2010/36/EU of 1 June 2010 on safety rules and standards for passenger ships (recast). The purpose of the Directive is the introduction of a uniform level of safety of life and property on new and existing passenger ships and high-speed passenger craft, when they are engaged on domestic voyages.

The Regulations also give the Minister power to charge fees for surveys carried out and certificates issued under the Regulations.

These Regulations revoke the European Communities (Passenger Ships) Regulations 2004 (S.I. No. 716 of 2004).

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